

AMENDED IN ASSEMBLY AUGUST 21, 1996

SENATE BILL

No. 2041

Introduced by Senator Hughes

February 23, 1996

An act to amend Sections ~~22007, 22008, 22107, 22108, 22127, 22130, 22132, 22136, 22140, 22143, 22149, 22165, 22166, 22170, 22200, 22201, 22213, 22214, 22215, 22222, 22223, 22224, 22225, 22250, 22251, 22252, 22253, 22254, 22304, 22306, 22307, 22308, 22309, 22311, 22313, 22318, 22321, 22323, 22328, 22360, 22361, 22450, 22453, 22454, 22457, 22461, 22500, 22514, 22515, 22516, 22600, 22602, 22604, 22650, 22651, 22653, 22654, 22655, 22657, 22658, 22700, 22703, 22705, 22706, 22709, 22711, 22713, 22717, 22718, 22719, 22720, 23008, 24011, 24012, 24117, 24119, 24304, 44922, 87483, and 87789~~ of, to add Sections ~~22110.2, 22110.5, 22122.5, 22146.5, 22155.5, 22161.5, 22162.5, 22201.2, 22201.3, 22601.5, and 22605~~ to, to repeal Sections ~~22103, 22125, 22164, and 22501~~ of, and to repeal and add Section ~~22163~~ of, the Education Code, and to amend Section ~~20900~~ of the Government Code, relating to school employees: 22002, 22006, 22007, 22107, 22108, 22115, 22117, 22120, 22122, 22124, 22126, 22127, 22128, 22129, 22130, 22131, 22132, 22136, 22138.5, 22140, 22143, 22144, 22146, 22148, 22149, 22156, 22158, 22165, 22166, 22171, 22200, 22201, 22207, 22213, 22214, 22215, 22218, 22220, 22221, 22222, 22223, 22224, 22225, 22250, 22251, 22252, 22253, 22254, 22255, 22259, 22301, 22302, 22303, 22303.5, 22304, 22307, 22308, 22309, 22310, 22311, 22313, 22315, 22316, 22317, 22318, 22319, 22321, 22322, 22323, 22324, 22327, 22328, 22329, 22330, 22335, 22358, 22360, 22361, 22362, 22375, 22400, 22450, 22451, 22453, 22454, 22455.5, 22456, 22457, 22458, 22459, 22460,

22461, 22500, 22510, 22511, 22513, 22514, 22515, 22516, 22601, 22602, 22604, 22650, 22651, 22653, 22655, 22656, 22657, 22658, 22659, 22661, 22662, 22663, 22664, 22665, 22700, 22703, 22705, 22706, 22709, 22711, 22713, 22714, 22715, 22716, 22717, 22718, 22719, 22720, 22721, 22800, 22801, 22802, 22803, 22805, 22806, 22808, 22809, 22810, 22900, 22901, 22903, 22904, 22906, 22907, 22950, 22951, 22952, 22953, 22956, 23000, 23001, 23004, 23004.5, 23008, 23009, 23101, 23102, 23103, 23104, 23106, 23107, 23200, 23201, 23202, 23203, 23300, 23302, 23303, 23304, 23401, 23700, 23702, 23800, 23804, 23850, 23851, 23854, 23859, 23880, 23881, 24001, 24003, 24004, 24005, 24011, 24012, 24013, 24014, 24015, 24018, 24100, 24101, 24102, 24103, 24104, 24105, 24107, 24110, 24111, 24112, 24113, 24114, 24116, 24117, 24119, 24201, 24202, 24203, 24204, 24205, 24207, 24208, 24209, 24210, 24214, 24215, 24216, 24219, 24300, 24301, 24302, 24303, 24304, 24305, 24306, 24306.5, 24307, 24309, 24310, 24400, 24401, 24405, 24406, 24407, 24408, 24409, 24410, 24411, 24412, 24415, 24500, 24501, 24504, 24505, 24603, 24604, 24605, 24606, 24607, 24608, 24609, 24610, 24611, 24612, 24613, 24614, 24615, 24616, 24617, 24620, 24700, 24701, 24702, 24703, 24704, 24706, 24751, 24950, 24951, 25000, and 25001 of, to add Sections 22110.1, 22110.2, 22110.5, 22122.4, 22122.5, 22146.5, 22155.5, 22161.5, 22162.5, 22201.2, 22201.3, 22501, 22601.5, and 22712.5 to, to repeal Sections 22125, 22164, 22334, and 22654 of, and to repeal and add Sections 22163, 22306, and 22501 of, the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 2041, as amended, Hughes. School employees: retirement.

(1) The State Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement System.

This bill would delete, redefine, and define various terms for purposes of determining rights and benefits under that system, including providing that the name of the system is the "State Teachers' Retirement System Defined Benefit Plan." The bill would make corresponding changes in some of the provisions of the law.

(2) Existing law prescribes the membership of the Teachers' Retirement Board.

This bill would provide that certain members of the board appointed by the Governor may be participants in the Cash Balance Plan or members of the system.

(3) The State Teachers' Retirement Law prescribes service and disability retirement benefits for members of the State Teachers' Retirement System.

This bill would require the Teachers' Retirement Board to consider, in determining whether a disabled member has good cause to fail to follow a medical treatment program, whether the medical condition has worsened. The bill would recast provisions relating to the reinstatement of a member who is retired for disability.

(4) The bill would delete a limitation upon part-time employment by academic employees of school and community college districts and the California State University who are older than 70 years of age.

(5) The State Teachers' Retirement Law defines various terms for purposes of administering the provisions of the State Teachers' Retirement System.

This bill would define additional terms and make other technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 22002 of the Education Code is*
2 *amended to read:*
3 22002. The Legislature recognizes that the assets of
4 the State Teachers' Retirement System are insufficient to
5 meet the obligations of that system already accrued or to
6 accrue in the future in respect to service credited to
7 members of that system prior to July 1, 1972. Therefore,
8 the Legislature declares the following policies in respect
9 to the financing of the State Teachers' Retirement
10 System:

1 (a) Members shall ~~be required to~~ contribute a
2 percentage of salaries earned, *unless otherwise specified*
3 *in this part*.

4 (b) ~~The employing agencies~~ *Employers* shall
5 contribute a percentage of total salaries on which
6 member contributions are based.

7 (c) The state shall contribute a sum certain for a given
8 number of years for the purpose of payment of benefits.

9 *SEC. 2. Section 22006 of the Education Code is*
10 *amended to read:*

11 22006. The right of a person to an annuity,~~a~~
12 ~~retirement salary~~, or a retirement allowance, to the
13 return of contributions, the annuity, ~~retirement salary~~, or
14 retirement allowance itself, any optional benefit, any
15 other right or benefit accrued or accruing to any person
16 under this part, and the moneys in the fund created under
17 this part are not subject to execution or any other process
18 whatsoever, except to the extent permitted by Section
19 704.110 of the Code of Civil Procedure, and are
20 unassignable except as specifically provided in this part.

21 *SEC. 3. Section 22007 of the Education Code is*
22 *amended to read:*

23 22007. The obligations of any member, or the
24 member's beneficiaries, to this system *and the plan*
25 continue throughout membership, and thereafter until
26 all of the obligations of this system *and the plan* to or in
27 respect to the member or the member's beneficiaries
28 have been discharged.

29 ~~SEC. 2. Section 22008 of the Education Code is~~
30 ~~amended to read:~~

31 ~~22008. For the purposes of payments into or out of the~~
32 ~~retirement fund for adjustments of errors or omissions,~~
33 ~~the period of limitation of actions shall be applied, except~~
34 ~~as provided in Sections 23302 and 24613, as follows:~~

35 (a) ~~No action may be commenced by or against the~~
36 ~~board or the system three years after all obligations to or~~
37 ~~on behalf of the member, former member, or beneficiary~~
38 ~~have been discharged.~~

39 (b) ~~In cases where the system makes an error resulting~~
40 ~~in incorrect payment to a member, beneficiary, child, or~~

1 ~~dependent parent, the system's right to commence~~
2 ~~recovery shall expire three years from the date of~~
3 ~~payment.~~

4 ~~(e) In cases where payment is erroneous due to lack of~~
5 ~~information or inaccurate information regarding the~~
6 ~~eligibility of a member, beneficiary, child, or dependent~~
7 ~~parent to receive benefits under this part, the period of~~
8 ~~limitation shall commence with the discovery of the~~
9 ~~erroneous payment.~~

10 ~~(d) Notwithstanding any other provision of this~~
11 ~~section, where any erroneous payment has been made on~~
12 ~~the basis of fraud or intentional misrepresentation by a~~
13 ~~member, beneficiary, or other party in relation to or on~~
14 ~~behalf of a member or beneficiary, the three-year period~~
15 ~~of limitation shall not be deemed to commence or to have~~
16 ~~commenced until the discovery of the error or omissions.~~

17 ~~(e) The collection of overpayments under~~
18 ~~subdivisions (b), (c), and (d) shall be made pursuant to~~
19 ~~Section 24617.~~

20 ~~SEC. 3. Section 22103 of the Education Code is~~
21 ~~repealed.~~

22 SEC. 4. Section 22107 of the Education Code is
23 amended to read:

24 22107. "Beneficiary" means any person or entity
25 receiving or entitled to receive ~~allowances and payments~~
26 *an allowance and payment* pursuant to this part because
27 of the *disability or* death of a member.

28 SEC. 5. Section 22108 of the Education Code is
29 amended to read:

30 22108. ~~"Benefits"~~ *"Benefit" or "benefits"* means any
31 monthly payment due a retired member, disabled
32 member, or ~~other~~ beneficiary, and includes lump-sum
33 payments due on account of death.

34 SEC. 6. *Section 22110.1 is added to the Education*
35 *Code, to read:*

36 22110.1. *"Cash Balance Plan" means the State*
37 *Teachers' Retirement System Cash Balance Plan as set*
38 *forth in Part 14 (commencing with Section 26000).*

39 SEC. 6.5. Section 22110.2 is added to the Education
40 Code, to read:

1 22110.2. “Credential,” “credentials,” and
2 “certificate” mean any life diploma, credential,
3 certificate, or other document provided for, by, and
4 issued pursuant to the laws of the state that authorize
5 service in the public school system of this state.

6 SEC. 7. Section 22110.5 is added to the Education
7 Code, to read:

8 22110.5. “Certificated” means the holding by a person
9 of a credential that is required by the laws of the state to
10 be held as a condition to valid employment in the position
11 in which the person is employed.

12 SEC. 8. *Section 22115 of the Education Code is*
13 *amended to read:*

14 22115. (a) “Compensation earnable” means the
15 annual compensation that a person would earn if he or she
16 were employed on a full-time basis and *if that person*
17 worked full time in that position.

18 (b) The board may determine compensation earnable
19 for persons employed on a part-time basis.

20 (c) For purposes of determining final compensation
21 for persons employed on a part-time basis, compensation
22 earnable shall be determined by dividing the
23 compensation earned by the service credit.

24 SEC. 9. *Section 22117 of the Education Code is*
25 *amended to read:*

26 22117. “Contribution rate for additional service
27 credit” means the contribution rate adopted by the board
28 ~~to~~ *for the* purchase of service credit. This rate shall be
29 based upon the most recent valuation of the system and
30 increased to include any subsequently required
31 contribution rates designated for funding subsequent
32 allowance increases.

33 SEC. 10. *Section 22120 of the Education Code is*
34 *amended to read:*

35 22120. “Credited interest” ~~is~~ *means* interest that is
36 credited to members’ accounts at a rate set annually by
37 the board.

38 SEC. 11. *Section 22122 of the Education Code is*
39 *amended to read:*

1 22122. “Custodian” as used in Section 22359, *is means*
2 any bank or trust company that serves as custodian for
3 safekeeping, delivery, securities valuation, investment
4 performance reporting, and other services in connection
5 with investment of the fund.

6 *SEC. 12. Section 22122.4 is added to the Education*
7 *Code, to read:*

8 22122.4. “Death payment” means the amount
9 payable upon the death of a member pursuant to Section
10 23801, 23851, or 23880.

11 *SEC. 13. Section 22122.5 is added to the Education*
12 *Code, to read:*

13 22122.5. “Defined Benefit Plan” means the State
14 Teachers’ Retirement System Defined Benefit Plan as set
15 forth in this part.

16 ~~SEC. 9.—~~

17 *SEC. 14. Section 22124 of the Education Code is*
18 *amended to read:*

19 22124. “Dependent parent” means a natural parent of
20 a member, or a parent who adopted the member prior to
21 the earlier of the occurrence of the member’s marriage
22 or his or her attaining 18 years of age, and who was
23 receiving one-half *or more* of his or her support from the
24 member at the time of the member’s death.

25 *SEC. 15. Section 22125 of the Education Code is*
26 *repealed.*

27 ~~SEC. 10. Section 22127 of the Education Code is~~
28 ~~amended to read:~~

29 ~~22127. “Disability allowance” means monthly~~
30 ~~amounts payable to a member who is eligible to receive~~
31 ~~disability benefits.~~

32 ~~SEC. 11.—~~

33 *SEC. 16. Section 22126 of the Education Code is*
34 *amended to read:*

35 22126. “Disability” or “disabled” means any
36 medically determinable physical or mental impairment
37 that is permanent or that can be expected to last
38 continuously for at least 12 months, measured from the
39 onset of the disability, but no earlier than the day
40 following the last day of ~~on the job performance service~~

1 that prevents a member from performing the member's
2 usual duties for the member's employer, the member's
3 usual duties for the member's employer with reasonable
4 modifications, or the duties of a comparable level position
5 for which the member is qualified or can become
6 qualified within a reasonable period of time by education,
7 training, or experience. Any impairment from a willful
8 self-inflicted injury shall not constitute a disability.

9 *SEC. 17. Section 22127 of the Education Code is*
10 *amended to read:*

11 22127. "Disability allowance" means ~~monthly~~
12 ~~amounts the amount~~ payable to a ~~disabillitant~~ disabled
13 ~~member on a monthly basis.~~

14 *SEC. 18. Section 22128 of the Education Code is*
15 *amended to read:*

16 22128. "Early retirement" and "early retirement
17 age" ~~means mean~~ age 55 years ~~and which~~ is the plan age
18 upon attainment of which the member becomes eligible
19 for a service retirement allowance with reduction
20 because of age and without special qualifications.

21 *SEC. 19. Section 22129 of the Education Code is*
22 *amended to read:*

23 22129. "Educational institution" ~~is~~ means any
24 accredited public or private institution whose primary
25 purpose is to provide classroom teaching and includes a
26 high school, trade or vocational school or college,
27 community college, or other college or university.

28 *SEC. 20. Section 22130 of the Education Code is*
29 *amended to read:*

30 22130. "Effective date" means the date upon which
31 the benefit becomes payable.

32 ~~SEC. 12.—~~

33 *SEC. 21. Section 22131 of the Education Code is*
34 *amended to read:*

35 22131. "Employer" or "employing agency" means the
36 state or any agency or political subdivision thereof ~~by~~
37 ~~whom a member is paid~~ for which creditable service
38 ~~subject to coverage by the plan is performed.~~

39 *SEC. 21.5. Section 22132 of the Education Code is*
40 *amended to read:*

1 22132. ~~“Employment”~~ “Employed” or
2 “employment” means employment to perform
3 creditable service subject to coverage by the State
4 Teachers’ Retirement System Defined Benefit Plan.

5 ~~SEC. 13.—~~

6 SEC. 22. Section 22136 of the Education Code is
7 amended to read:

8 22136. (a) “Final compensation” with respect to a
9 member whose salary ~~has been~~ *while an active member*
10 *was* reduced because of a reduction in school funds means
11 the highest average annual compensation earnable by the
12 member during ~~any three years during his or her~~
13 ~~membership in the~~ *any three years while employed to*
14 *perform creditable service subject to coverage by the*
15 *plan if the member elects to be subject to this section.*

16 (b) For the purposes of this section, a year shall be
17 considered to be a period of 12 consecutive months.

18 ~~SEC. 14.—~~

19 SEC. 23. Section 22138.5 of the Education Code is
20 amended to read:

21 22138.5. (a) “Full-time” means the days or hours of
22 creditable service the employer requires to be performed
23 by a class of employees in a school year in order to earn
24 the compensation earnable as defined in Section 22115
25 and specified under the terms of a collective bargaining
26 agreement or employment agreement. For the purpose
27 of crediting service under this part, “full time” shall not
28 be less than the minimum standards specified in this
29 section.

30 (b) The minimum standard for full time in
31 kindergarten through grade 12 shall be:

32 (1) One hundred seventy-five days per year or 1,050
33 hours per year except as provided in paragraph (2).

34 (2) (A) One hundred ninety days per year or 1,520
35 hours per year for all *principals and* program managers
36 ~~and principals,~~ *including advisers, coordinators,*
37 *consultants, and developers or planners of curricula,*
38 *instructional materials, or programs,* and for
39 administrators except as provided in subparagraph (B).

(B) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the board for administrators at a county office of education.

(c) The minimum standard for full time in community colleges shall be:

(1) Thirty teaching units per year of not less than 35 weeks in duration for annual or hourly employment; or 175 days per year for daily employment. Full time shall include time for duties the employer requires to be performed as part of the full-time assignment in a particular classification, even if that time is not included in the expression of teaching units.

(2) One hundred ninety days per year or 1,520 hours per year for all program managers and for administrators, except as provided in paragraph (3).

(3) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the board for administrators at a district office.

(d) The minimum standard for full time in adult education programs in any school district or community college district shall be 30 hours per week for 35 weeks per year, or 1,050 hours per year.

(e) The board shall have final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified herein.

SEC. 23.5. Section 22140 of the Education Code is amended to read:

22140. "Improvement factor" means an increase of 2 percent in benefits for each year commencing on September 1, following the first anniversary of the effective ~~retirement date~~ *date of retirement*, or the date on which *the* monthly benefits commenced to accrue to any beneficiary other than a retired member or other periods specifically stated in this part. The factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions *or the accumulated tax-sheltered annuity contributions*. The Legislature reserves the right to adjust

1 the amount of the improvement factor up or down as
2 economic conditions dictate. No adjustments of the
3 improvement factor shall reduce the monthly retirement
4 allowance or benefit below that which would be payable
5 to the recipient under this part had this section not been
6 enacted.

7 ~~SEC. 15.—~~

8 SEC. 24. Section 22143 of the Education Code is
9 amended to read:

10 22143. “Investment manager” and “investment
11 adviser” mean any person, firm, or custodian referred to
12 in Section 22359, either appointed by or under contract
13 with the board to engage in investment transactions or to
14 manage or advise in the management of the assets of the
15 Teachers’ Retirement Fund and the Cash Balance Fund
16 *under Part 14 (commencing with Section 26000).*

17 ~~SEC. 16.—~~

18 SEC. 25. Section 22144 of the Education Code is
19 amended to read:

20 22144. “Investment transactions” means investment
21 services of an asset management or investment advisory
22 nature and may include advisory services, research
23 material, trading assistance, trading expenses,
24 discretionary management of funds of the ~~system~~ *plan*
25 upon approval by the board, acquisition of equipment to
26 be used as part of the investment function, services that
27 provide a recommended course of action or personal
28 expertise, investment-related legal expenses,
29 investment-related contracting expenses, or custodian
30 services referred to in Section 22359.

31 SEC. 26. Section 22146 of the Education Code is
32 amended to read:

33 22146. ~~(a)–~~“Member” means any person, unless
34 excluded under other provisions of this part, who has
35 performed creditable service as defined in Section
36 22119.5 ~~for an employer~~ and has earned compensation for
37 that service and has not received a refund for that service.
38 A member’s rights and obligations under this part shall be
39 determined by the applicability of subdivision (a), (b),
40 (c), or (d) ~~to the member during a school year~~, unless the

1 member's rights and obligations are determined under
2 other provisions of this part.

3 ~~(b)–~~

4 (a) An active member is a member who *is not retired*
5 *or disabled and who* earns compensation during the
6 school year.

7 ~~(c)–~~

8 (b) An inactive member is a member who *is not*
9 *retired or disabled and who*, by the pay period ending
10 June 30, has not earned compensation during the school
11 year.

12 ~~(d)–~~

13 (c) A disabled member is a member to whom a
14 disability allowance is payable under Section 24006.

15 ~~(e)–~~

16 (d) A retired member is a member who has
17 terminated employment and has retired for service
18 under the provisions of Section 24204 or has retired for
19 disability under the provisions of Section 24105, and to
20 whom a retirement allowance is therefore payable.

21 SEC. 27. Section 22146.5 is added to the Education
22 Code, to read:

23 22146.5. "Membership" means membership in the
24 Defined Benefit Plan, except as otherwise specifically
25 provided in this part.

26 ~~SEC. 17.—~~

27 SEC. 28. Section 22148 of the Education Code is
28 amended to read:

29 22148. "Normal retirement" and "normal retirement
30 age" mean age 60 years ~~and are~~ *which is* the plan age upon
31 attainment of which the member becomes eligible for a
32 service retirement allowance without reduction because
33 of age and without special qualifications.

34 SEC. 29. Section 22149 of the Education Code is
35 amended to read:

36 22149. "Option beneficiary" means a person
37 designated to receive an actuarially reduced retirement
38 allowance upon a member's death.

39 SEC. 18. Section 22155.5 is added to the Education
40 Code, to read:



1 22155.5. “Plan” means the State Teachers’
2 Retirement System Defined Benefit Plan as set forth in
3 this part.

4 ~~SEC. 19.—~~

5 *SEC. 32. Section 22156 of the Education Code is*
6 *amended to read:*

7 22156. “Plan vesting” means the rights of the member
8 upon completion of the minimum number of required
9 years of credited service provided in the retirement plan
10 to entitle the member or his or her beneficiary to a
11 monthly retirement allowance, disability allowance,
12 survivor, family or death benefit at a future date, prior to
13 the completion of which the member upon resignation
14 from service is entitled only to a refund of his or her
15 accumulated *retirement* contributions as provided in this
16 part.

17 *SEC. 33. Section 22158 of the Education Code is*
18 *amended to read:*

19 22158. “Projected service” means the credited
20 service plus the service which would have been earned
21 had the member ~~or—disability~~ continued to earn
22 credited service to the earlier of normal retirement age
23 or the date the disability allowance is terminated at the
24 same rate as the highest of any one of the three school
25 years immediately preceding death or the date *the*
26 disability allowance began to accrue.

27 *SEC. 34. Section 22161.5 is added to the Education*
28 *Code, to read:*

29 22161.5. “Refund” means a lump-sum return of the
30 member’s accumulated retirement contributions.

31 ~~SEC. 20.—~~

32 *SEC. 35. Section 22162.5 is added to the Education*
33 *Code, to read:*

34 22162.5. “Regular meeting” means a meeting of the
35 board held in accordance with a schedule of meetings
36 that states the dates and places of the meetings and that
37 is adopted by the board.

38 ~~SEC. 21.—~~

39 *SEC. 36. Section 22163 of the Education Code is*
40 *repealed.*

1 ~~SEC. 22.—~~

2 *SEC. 37.* Section 22163 is added to the Education
3 Code, to read:

4 22163. “Reinstatement” means the termination of a
5 service or disability retirement allowance and
6 establishing status as an inactive member if service is not
7 subsequently performed or establishing status as an
8 active member if service is subsequently performed.

9 ~~SEC. 23.—~~

10 *SEC. 38.* Section 22164 of the Education Code is
11 repealed.

12 ~~SEC. 24.—~~

13 *SEC. 39.* Section 22165 of the Education Code is
14 amended to read:

15 22165. “Retirement” means termination of *status as*
16 *an* inactive member or *an* active member ~~status~~ to
17 receive a retirement allowance.

18 ~~SEC. 25.—~~

19 *SEC. 40.* Section 22166 of the Education Code is
20 amended to read:

21 22166. “Retirement allowance” means the ~~monthly~~
22 ~~amounts~~ *amount* payable to a retired member or ~~the an~~
23 option beneficiary *on a monthly basis*.

24 ~~SEC. 26. Section 22170 of the Education Code is~~
25 ~~amended to read:~~

26 ~~22170. “Service” means service performed for~~
27 ~~creditable compensation in a position requiring~~
28 ~~membership in the plan, except as otherwise specifically~~
29 ~~provided in this part.~~

30 ~~SEC. 27.—~~

31 *SEC. 41.* Section 22171 of the Education Code is
32 amended to read:

33 22171. “Spouse” means a person who was married to
34 the member *for a continuous period beginning* at least 12
35 months prior to the death of the member unless a child
36 is born to the ~~union~~ *member and his or her spouse* within
37 the 12-month period or *unless* the ~~surviving~~ spouse is
38 carrying the member’s unborn child.

39 *SEC. 42.* Section 22200 of the Education Code is
40 amended to read:

22200. (a) The system is managed by the Teachers' Retirement Board. The members of the board are as follows:

(1) The Superintendent of Public Instruction.

(2) The Controller.

(3) The Treasurer.

(4) The Director of Finance.

(5) One person who, at the time of appointment, is a member of the governing board of a school district or a community college district.

(6) Three persons who are members of the Defined Benefit Plan or participants of the Cash Balance Plan, as follows:

(A) Two persons who, at the time of appointment, are classroom teachers in kindergarten or grades 1 through 12.

(B) One person who, at time of appointment, is a community college instructor with expertise in the areas of business or economics or both business and economics and who shall be appointed by the Governor for a term of four years from a list submitted by the Board of Governors of the California Community Colleges.

(7) One person who is a retired member of the Defined Benefit Plan or a participant receiving an annuity under the Cash Balance Plan.

(8) One officer of a life insurance company appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(9) One officer of a bank or a savings and loan institution who has had at least five years of broad professional investment experience handling various asset classes such as stocks, bonds, and mortgage investments and who shall be appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(10) One ~~member~~ *person* representing the public, appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(b) The members of the board described in paragraphs (5) and (7) and subparagraph (A) of

1 paragraph (6) of subdivision (a) shall be appointed by the
2 Governor for four-year terms from a list submitted by the
3 Superintendent of Public Instruction.

4 (c) The members of the board shall annually elect a
5 chairperson and vice chairperson.

6 ~~SEC. 28.—~~

7 *SEC. 43.* Section 22201 of the Education Code is
8 amended to read:

9 22201. (a) The board shall set policy and shall have
10 the sole power and authority to hear and determine all
11 facts pertaining to application for benefits under the
12 ~~system~~ *plan* or any matters pertaining to the
13 administration of the system.

14 (b) The board shall meet at least once every calendar
15 quarter at such times as it may determine. The meetings
16 shall be presided over by the chairperson. In the event of
17 ~~the chairperson's~~ absence from a meeting ~~of the~~
18 ~~chairperson~~, the vice chairperson shall act as presiding
19 officer and perform all other duties of the chairperson.

20 ~~SEC. 29.—~~

21 *SEC. 44.* Section 22201.2 is added to the Education
22 Code, to read:

23 22201.2. A quorum of the board shall consist of the
24 majority of the board members. In determining whether
25 or not a quorum is present, vacant positions on the board
26 shall not be considered. The concurrence of the majority
27 of the board members present shall be necessary to the
28 validity of any action taken by the board.

29 ~~SEC. 30.—~~

30 *SEC. 45.* Section 22201.3 is added to the Education
31 Code, to read:

32 22201.3. The chief executive officer of the system shall
33 act as secretary of the board and shall have charge of all
34 board correspondence and shall keep a record of board
35 proceedings.

36 ~~SEC. 31.—~~

37 *SEC. 46.* Section 22207 of the Education Code is
38 amended to read:

1 22207. The board shall perform any other acts
2 necessary for the administration of the system *and the*
3 *plan* in carrying into effect the provisions of this part.

4 SEC. 47. Section 22213 of the Education Code is
5 amended to read:

6 22213. The board shall regulate the duties of
7 employers and employing agencies and other public
8 authorities, imposed upon them by this part, and shall
9 require reports from employers, employing agencies and
10 other public authorities as it deems advisable in
11 connection with the performance of its duties.

12 ~~SEC. 32.—~~

13 SEC. 48. Section 22214 of the Education Code is
14 amended to read:

15 22214. The board may take any action it deems
16 necessary to ensure the continued right of members or
17 beneficiaries to receive monthly payments.

18 ~~SEC. 33.—~~

19 SEC. 49. Section 22215 of the Education Code is
20 amended to read:

21 22215. The board shall determine the service
22 performed by members to be credited toward
23 qualification for retirement, and shall fix and modify
24 ~~retirement—allowances.~~ *allowances provided under this*
25 *part.*

26 ~~SEC. 34.—~~

27 SEC. 50. *Section 22218 of the Education Code is*
28 *amended to read:*

29 22218. The board shall establish and maintain ~~an~~
30 ~~adequate system of~~ records and accounts following
31 recognized accounting principles and controls.

32 SEC. 51. *Section 22220 of the Education Code is*
33 *amended to read:*

34 22220. The board ~~shall~~ *may* subpoena witnesses and
35 compel their attendance to testify before it.

36 SEC. 52. *Section 22221 of the Education Code is*
37 *amended to read:*

38 22221. The board shall adopt, upon the
39 recommendation of the actuary of the system, any

1 mortality and other tables and interest rates necessary to
2 ~~do either of the following:~~

3 (a) Permit valuation of the assets and liabilities of the
4 system.

5 (b) Make any determination or calculation necessary
6 to carry out this part.

7 *SEC. 53.* Section 22222 of the Education Code is
8 amended to read:

9 22222. The board may adjust the amounts of the death
10 payments based on changes in the All Urban California
11 Consumer Price Index, provided that the most recent
12 actuarial valuation report indicates that the adjustment
13 would not increase the normal cost.

14 ~~*SEC. 35.*~~

15 *SEC. 53.5.* Section 22223 of the Education Code is
16 amended to read:

17 22223. The members of the board who are not
18 members of the Defined Benefit Plan or participants of
19 the Cash Balance Plan and who are appointed by the
20 Governor pursuant to Section 22200 shall receive one
21 hundred dollars (\$100) for every day of actual attendance
22 at meetings of the board or any meeting of any committee
23 of the board of which the person is a member, and that
24 is conducted for the purpose of carrying out the powers
25 and duties of the board, together with their necessary
26 traveling expenses incurred in connection with
27 performance of their official duties.

28 ~~*SEC. 36.*~~

29 *SEC. 54.* Section 22224 of the Education Code is
30 amended to read:

31 22224. Members of the Defined Benefit Plan and
32 participants of the Cash Balance Plan, who are either
33 appointed to the board by the Governor pursuant to
34 Section 22200, or who are appointed by the board to serve
35 on a committee or subcommittee of the board or a panel
36 of the system, shall be granted, by his or her employer,
37 sufficient time away from regular duties, without loss of
38 compensation or other benefits to which the person is
39 entitled by reason of employment, to attend meetings of
40 the board or any ~~the board of person the member is a~~

1 ~~member, or to serve as~~ of its committees or
2 ~~subcommittees of which the person is a member, or to~~
3 serve as a member of a panel of the system, and to attend
4 to the duties expected to be performed by the person.

5 ~~SEC. 37.—~~

6 SEC. 55. Section 22225 of the Education Code is
7 amended to read:

8 22225. (a) The compensation of the members of the
9 Defined Benefit Plan and participants of the Cash
10 Balance Plan who are appointed to the board, or by the
11 board to a committee or subcommittee, or to a panel of
12 the system, shall not be reduced by his or her employer
13 for any absence from service occasioned by attendance
14 upon the business of the board, pursuant to Section 22224.

15 (b) Each employer that employs a member of the
16 Defined Benefit Plan or a participant of the Cash Balance
17 Plan appointed pursuant to Section 22224 and that
18 employs a person to replace the member or participant
19 during attendance at meetings of the board, its
20 committees or subcommittees ~~of the board~~, or when
21 serving as a member of a panel of the system, or when
22 carrying out other duties approved by the board, shall be
23 reimbursed from the retirement fund for the cost
24 incurred by employing a replacement.

25 ~~SEC. 38.—~~

26 SEC. 56. Section 22250 of the Education Code is
27 amended to read:

28 22250. The board and its officers and employees *of the*
29 *system* shall discharge their duties with respect to the
30 system *and the plan* solely in the interest of the members
31 and beneficiaries as follows:

32 (a) For the exclusive purpose of the following:

33 (1) Providing benefits to members and beneficiaries.

34 (2) Defraying reasonable expenses of administering
35 the plan.

36 (b) With the care, skill, prudence, and diligence under
37 the circumstances then prevailing that a prudent person
38 acting in a like capacity and familiar with those matters
39 would use in the conduct of an enterprise of a like
40 character and with like aims.

1 (c) By diversifying the investments of the system so as
2 to minimize the risk of large losses, unless under the
3 circumstances it is clearly prudent not to do so.

4 (d) In accordance with the documents and
5 instruments governing the system insofar as those
6 documents and instruments are consistent with this part.

7 ~~SEC. 39.—~~

8 SEC. 57. Section 22251 of the Education Code is
9 amended to read:

10 22251. (a) Except as provided in subdivision (b), the
11 assets of the ~~system~~ *plan* shall never inure to the benefit
12 of ~~a school district or other employing agency~~ *an*
13 *employer* and shall be held for the exclusive purposes of
14 providing benefits to members and beneficiaries and
15 defraying reasonable expenses of administering the
16 system.

17 (b) In the case of a contribution that is made by a
18 ~~school district or other employing agency~~ *an employer* by
19 a mistake of fact, subdivision (a) shall not prohibit the
20 return of that contribution within one year after the
21 system knows, or should know in the ordinary course of
22 business, that the contribution was made by a mistake of
23 fact.

24 ~~SEC. 40.—~~

25 SEC. 58. Section 22252 of the Education Code is
26 amended to read:

27 22252. Except as otherwise provided by law, the
28 board and its officers and employees *of the system* shall
29 not cause the system to engage in a transaction if they
30 know or should know that the transaction constitutes a
31 direct or indirect:

32 (a) Sale or exchange, or leasing, of any property from
33 the system to a member or beneficiary for less than
34 adequate consideration, or from a member or beneficiary
35 to the system for more than adequate consideration.

36 (b) Lending of money or other extension of credit
37 from the system to a member or beneficiary without the
38 receipt of adequate security and a reasonable rate of
39 interest, or from a member or beneficiary with the

1 provision of excessive security or an unreasonably high
2 rate of interest.

3 (c) Furnishing of goods, services, or facilities from the
4 system to a member or beneficiary for less than adequate
5 consideration, or from a member, retirant, or beneficiary
6 to the system for more than adequate consideration.

7 (d) Transfer to, or use by or for the benefit of, a
8 member or beneficiary of any assets of the ~~system~~ *plan* for
9 less than adequate consideration.

10 (e) Acquisition, on behalf of the system, of any ~~school~~
11 ~~district or other employing agency~~ *employer* security,
12 real property, or loan.

13 ~~SEC. 41.—~~

14 *SEC. 59.* Section 22253 of the Education Code is
15 amended to read:

16 22253. The board and its officers and employees *of the*
17 *system* shall not do any of the following:

18 (a) Deal with the assets of the system in their own
19 interest or for their own account.

20 (b) In their individual or in any other capacity, act in
21 any transaction involving the system on behalf of a party,
22 or represent a party, whose interests are adverse to the
23 interests of the ~~system~~ *plan* or the interests of the
24 members and beneficiaries.

25 (c) Receive any consideration for their personal
26 account from any party ~~dealing~~ *conducting business* with
27 the system in connection with a transaction involving the
28 assets of the ~~system~~ *plan*.

29 ~~SEC. 42.—~~

30 *SEC. 60.* Section 22254 of the Education Code is
31 amended to read:

32 22254. (a) Any ~~member of the board or its officers~~
33 *board member or officer* who breaches any of the
34 responsibilities, obligations, or duties imposed upon them
35 by Section 22251, 22252, or 22253 shall be personally liable
36 to make restitution to the retirement fund *for* any losses
37 to it resulting from each breach, and to restore any profits
38 that have been made through use of assets of the fund and
39 shall be subject to any other equitable or remedial relief

1 the court may deem appropriate, including removal of
2 ~~from the board member or officer.~~

3 (b) No board member or officer shall be liable with
4 respect to a breach of fiduciary duty under this part if the
5 breach was committed before the board member or
6 officer became one, or ceased to be one.

7 ~~SEC. 43.—~~

8 *SEC. 61. Section 22255 of the Education Code is*
9 *amended to read:*

10 22255. (a) No board member or officer shall be
11 personally liable for the breach of a fiduciary duty except
12 as set forth in Section 22254 or 22256. This subdivision shall
13 apply only to causes of actions arising on or after January
14 1, 1990.

15 (b) Nothing in this section shall be interpreted to
16 lessen the scope of liability of *board* members ~~of the board~~
17 or employees of the system for gross negligence or fraud
18 in the investment of the retirement fund assets, nor to
19 lessen the scope of liability of the *board* or system for
20 breach of fiduciary duty pertaining to the administration
21 of ~~retirement benefits, including the granting, denial, or~~
22 ~~withdrawal of benefits the plan.~~

23 *SEC. 62. Section 22259 of the Education Code is*
24 *amended to read:*

25 22259. (a) All *board* members ~~of the board~~ and its
26 officers and employees *of the system* shall execute a
27 fidelity bond, in an amount determined by the board to
28 be prudent, conditioned upon the faithful performance
29 of the duties of the *board* member or employee.

30 (b) All ~~members of the~~ *board members* and its officers
31 and all staff of the investment division who are authorized
32 to invest funds shall be covered with fiduciary liability
33 insurance in an amount determined by the board to be
34 prudent.

35 *SEC. 63. Section 22301 of the Education Code is*
36 *amended to read:*

37 22301. The chief executive officer has the authority
38 and responsibility for the administration of the system
39 *and the plan* pursuant to the policies and rules adopted
40 by the board. ~~He or she~~ *The chief executive officer* may

1 delegate to his or her subordinates any act or duty unless
2 the board by motion or resolution recorded in its minutes
3 has required ~~him or her~~ *the chief executive officer* to act
4 personally.

5 *SEC. 64. Section 22302 of the Education Code is*
6 *amended to read:*

7 22302. (a) The board shall establish an ombudsman
8 position to serve as an advocate for the members of the
9 ~~system plan~~. The duties of the ombudsman position shall
10 include reviewing and making recommendations to the
11 chief executive officer regarding complaints by school
12 employees, members, ~~retirants~~, employee organizations,
13 ~~Members of the Legislature, or members of the public~~
14 regarding actions of the ~~staff employees~~ of the system.

15 (b) It is the intent of the Legislature that the salary of
16 the position of ombudsman be offset, as much as possible,
17 through savings realized ~~in~~ *from a* reduction in interest
18 payments on delinquent benefits to members, and
19 through a more efficient and improved public relations
20 program.

21 *SEC. 65. Section 22303 of the Education Code is*
22 *amended to read:*

23 22303. Due to an increase in the demand for
24 retirement counseling services, the system,
25 notwithstanding any other provision of law, may contract
26 with a county superintendent or other ~~employing agency~~
27 ~~employer~~ to provide retirement counseling, ~~employing~~
28 ~~retired~~. *Retired public employees may be employed on*
29 *a part-time basis for that purpose, unless and until the*
30 *study required by subdivision (b) of Section 7 of Chapter*
31 *1532 of the Statutes of 1985 recommends against the*
32 *employment of retired public employees for these*
33 *purposes. This authorization is subject to the availability*
34 *of funds appropriated for that purpose in the annual*
35 *Budget Act.*

36 *SEC. 66. Section 22303.5 of the Education Code is*
37 *amended to read:*

38 22303.5. (a) Notwithstanding any other provision of
39 law, the board shall offer a midcareer retirement
40 information program for the benefit of all members.

1 (b) In implementing this section, the board shall
2 develop plans for the development and delivery of
3 information to enhance awareness of the features,
4 benefits, and services of the system, federal Social
5 Security Act programs and benefits as they apply to
6 members, and awareness of personal planning
7 responsibilities. This information shall be provided to
8 assist members in understanding the importance of
9 financial, legal, estate, and personal planning, and how
10 choices and options offered by the system may impact
11 retirement.

12 ~~(c) The sum of one hundred thousand dollars~~
13 ~~(\$100,000) is hereby appropriated from the Teachers'~~
14 ~~Retirement Fund to the board, in augmentation of Item~~
15 ~~1920-001-835 of the Budget Act of 1994, to pay the startup~~
16 ~~expenses of the midcareer retirement information~~
17 ~~program required by this section.~~

18 ~~(d) The board, at a public meeting, shall~~ may assess a
19 participation fee for the recovery of all startup and
20 ongoing expenses of the midcareer information program.

21 SEC. 67. Section 22304 of the Education Code is
22 amended to read:

23 22304. The costs of administration of the plan shall be
24 paid from the retirement fund and those costs may not
25 exceed the amount made available by law during any
26 fiscal period.

27 ~~SEC. 44. Section 22306 of the Education Code is~~
28 ~~amended to read:~~

29 ~~22306. (a) Data filed by any member or beneficiary~~
30 ~~with the board is confidential. No official or employee~~
31 ~~who has access to the individual records shall divulge any~~
32 ~~information concerning those records to any person other~~
33 ~~than the member or beneficiary to whom the information~~
34 ~~relates or that person's authorized representative, the~~
35 ~~governing board of the school district or agency by which~~
36 ~~the member is employed, or any state department or~~
37 ~~agency, except as necessary to locate a person to whom~~
38 ~~a benefit or refund may be payable. The information shall~~
39 ~~be used by the board for the sole purpose of carrying this~~
40 ~~part into effect.~~

1 ~~(b) The information is not open to inspection by~~
2 ~~anyone except the board and its officers and employees;~~
3 ~~and any person authorized by the Legislature to make~~
4 ~~inspections.~~

5 ~~(c) Information filed with the board in a beneficiary~~
6 ~~designation form may be released, after the death of the~~
7 ~~member, to those persons who can provide information~~
8 ~~necessary for the distribution of benefits.~~

9 *SEC. 68. Section 22306 of the Education Code is*
10 *repealed.*

11 ~~22306. (a) Data filed by any member, retirant, or~~
12 ~~beneficiary with the board is confidential. No official or~~
13 ~~employee who has access to the individual records shall~~
14 ~~divulge any information concerning those records to any~~
15 ~~person other than the member or retirant to whom the~~
16 ~~information relates or that person's authorized~~
17 ~~representative, the governing board of the school district~~
18 ~~or agency by which the member or retirant is employed,~~
19 ~~or any state department or agency, except as necessary to~~
20 ~~locate a person to whom a benefit or refund may be~~
21 ~~payable. The information shall be used by the board for~~
22 ~~the sole purpose of carrying this part into effect.~~

23 ~~(b) The information is not open to inspection by~~
24 ~~anyone except the board and its officers and employees;~~
25 ~~and any person authorized by the Legislature to make~~
26 ~~inspections.~~

27 ~~(c) Information filed with the board in a beneficiary~~
28 ~~designation form may be released, after the death of the~~
29 ~~member or retirant, to those persons who can provide~~
30 ~~information necessary for the distribution of benefits.~~

31 *SEC. 69. Section 22306 is added to the Education*
32 *Code, to read:*

33 *22306. (a) Information filed with the system by a*
34 *member or beneficiary is confidential and shall be used*
35 *by the system for the sole purpose of carrying into effect*
36 *the provisions of this part. No official or employee of the*
37 *system who has access to the individual records of a*
38 *member or beneficiary shall divulge any confidential*
39 *information concerning those records to any person*
40 *except in the following instances:*

1 (1) *To the member or beneficiary to whom the*
2 *information relates.*

3 (2) *To the authorized representative of the member*
4 *or beneficiary.*

5 (3) *To the governing board of the member's current*
6 *or former employer.*

7 (4) *To any department, agency, or political*
8 *subdivision of this state.*

9 (5) *To other individuals as necessary to locate a person*
10 *to whom a benefit may be payable.*

11 (b) *Information filed with the system in a beneficiary*
12 *designation form may be released after the death of the*
13 *member to those persons who may provide information*
14 *necessary for the distribution of benefits.*

15 (c) *The information is not open to inspection by*
16 *anyone except the board and its officers and employees*
17 *of the system, and any person authorized by the*
18 *Legislature to make inspections.*

19 ~~SEC. 45.—~~

20 SEC. 70. Section 22307 of the Education Code is
21 amended to read:

22 22307. (a) The board may authorize the transfer and
23 disbursement of funds from the retirement fund for the
24 purpose of carrying into effect this part upon the
25 signature of either or both of its chairperson and vice
26 chairperson or the chief executive officer or any
27 employee of the system designated by the chief executive
28 officer.

29 (b) Notwithstanding Section 13340 of the
30 Government Code, the board may disburse funds for the
31 payment of benefits to members and beneficiaries, for the
32 payment of refunds and for investment transactions and
33 these funds shall not be required to be appropriated
34 through the annual Budget Act. Funds for the payment
35 of administrative expenses are not continuously
36 appropriated, and shall be appropriated by the annual
37 Budget Act.

38 ~~SEC. 46.—~~

39 SEC. 71. Section 22308 of the Education Code is
40 amended to read:

1 22308. (a) Subject to subdivision (d), the board may,
2 in its discretion and upon any terms it deems just, correct
3 the errors or omissions of any member or beneficiary,
4 provided that all of the following facts exist:

5 (1) The error or omission was the result of mistake,
6 inadvertence, surprise, or excusable neglect, as each of
7 those terms is used in Section 473 of the Code of Civil
8 Procedure.

9 (2) The correction will not provide the party seeking
10 correction with a status, right, or obligation not otherwise
11 available under this part.

12 (b) Failure by a member or beneficiary to make the
13 inquiry that would be made by a reasonable person in like
14 or similar circumstances does not constitute an “error or
15 omission” correctable under this section.

16 (c) Subject to subdivision (d), the board may correct
17 all actions taken as a result of errors or omissions of the
18 employer or this system.

19 (d) The duty and power of the board to correct errors
20 and omissions, as provided in this section, shall terminate
21 upon the expiration of obligations of ~~this system~~ *the*
22 *board, system, and plan* to the party seeking correction of
23 the error or omission, as those obligations are defined by
24 Section 22008.

25 (e) Corrections of errors or omissions pursuant to this
26 section shall be such that the status, rights, and obligations
27 of all parties described in subdivisions (a), (b), and (c)
28 are adjusted to be the same that they would have been if
29 the act that *was taken or* would have been taken, but for
30 the error or omission, was taken at the proper time.
31 However, notwithstanding any of the other provisions of
32 this section, corrections made pursuant to this section
33 shall adjust the status, rights, and obligations of all parties
34 described in subdivisions (a), (b), and (c) as of the time
35 that the correction actually takes place if the board finds
36 any of the following:

37 (1) That the correction cannot be performed in a
38 retroactive manner.

39 (2) That even if the correction can be performed in a
40 retroactive manner, the status, rights, and obligations of

1 all of the parties described in subdivisions (a), (b), and
2 (c) cannot be adjusted to be the same as they would have
3 been if the error or omission had not occurred.

4 ~~SEC. 47.—~~

5 *SEC. 72.* Section 22309 of the Education Code is
6 amended to read:

7 22309. (a) The board shall issue to each active and
8 inactive member, after the close of the school year, a
9 statement of his or her individual account, provided the
10 employer or member has informed the system of the
11 member's current mailing address.

12 (b) The board shall periodically make a good faith
13 effort to locate inactive members to provide these
14 members with information concerning any benefit for
15 which they may be eligible.

16 ~~SEC. 48.—~~

17 *SEC. 73.* Section 22310 of the Education Code is
18 amended to read:

19 22310. (a) If a benefit or refund ~~of contributions~~
20 cannot be paid because, after a good faith effort, the
21 member or beneficiary cannot be located, the ~~amounts~~
22 ~~amount~~ payable shall be ~~retained in the Teachers'~~
23 ~~Retirement Fund~~ *returned to the retirement fund* until
24 the time the party entitled to payment is located.

25 (b) Interest shall continue to accrue on the
26 accumulated contributions pursuant to this part.

27 *SEC. 74.* Section 22311 of the Education Code is
28 amended to read:

29 22311. (a) The board shall keep in convenient form
30 any data necessary for the actuarial valuation of the plan.

31 (b) The board shall make an actuarial investigation
32 into the mortality, service, and other experience of
33 members and beneficiaries of the plan and *shall* make an
34 actuarial valuation of the assets and liabilities of the plan,
35 at least once every six years. The actuary shall perform
36 the actuarial valuation using actuarial assumptions
37 adopted by the board and that are, in the aggregate,
38 reasonably related to the past experience of the plan and
39 the best estimate by the actuary of the future experience
40 of the plan. The report of the actuary of the results of the

1 actuarial valuation shall identify and include the
2 components of normal cost and adequate information to
3 determine the effects of changes in actuarial assumptions.
4 Copies of the report on the actuarial valuation shall be
5 transmitted to the Governor and to the Legislature. Upon
6 the basis of any or all of the actuarial investigation and
7 valuation, the board shall adopt for the plan any rates of
8 return on investments, rates of contribution to the
9 retirement fund, mortality, service, and other tables it
10 deems necessary.

11 ~~SEC. 49.—~~

12 *SEC. 75.* Section 22313 of the Education Code is
13 amended to read:

14 22313. (a) No adjustment shall be included in new
15 rates of contribution adopted by the board on the basis of
16 an investigation, valuation, and determination or because
17 of amendment to the Teachers' Retirement Law, for time
18 prior to the effective date of the adoption or amendment,
19 as the case may be.

20 (b) No action of the board, other than correction of
21 errors in calculating the ~~annuity~~ allowance or annuity at
22 the time of retirement, disability or death of a member
23 shall change the allowance or annuity payable to a *retired*
24 member or beneficiary ~~retired~~ prior to the date the
25 action is taken.

26 ~~SEC. 50.—~~

27 *SEC. 76.* Section 22315 of the Education Code is
28 amended to read:

29 22315. (a) The Legislature hereby finds and declares
30 that it is the intent of the Legislature in enacting this
31 section and Section 22316 that members of the ~~system~~
32 *plan* not be adversely impacted, to the extent deemed
33 reasonable, by the application of Section 415 of the
34 Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 415).

35 (b) The system shall work closely with teacher
36 organizations to develop a supplemental plan that, to the
37 extent deemed reasonable and without violating the
38 intent and purposes of Section 415 of the Internal
39 Revenue Code of 1986, maintains the future retirement
40 benefits of the members and the fiscal integrity of the

1 retirement fund. The supplemental plan should not result
2 in any additional liability to the employer.

3 (c) The system shall also monitor the benefits of its
4 members and notify affected individuals of their options,
5 if deemed appropriate by the system.

6 *SEC. 77. Section 22316 of the Education Code is*
7 *amended to read:*

8 22316. (a) Notwithstanding any other provision of
9 this part, the benefits payable to any person who becomes
10 a member on or after January 1, 1990, shall be subject to
11 the limitations set forth in Section 415 of the Internal
12 Revenue Code of 1986 without regard to Section
13 415(b)(2)(F) of the Internal Revenue Code of 1986.

14 (b) Notwithstanding any other provision of law, the
15 benefits payable to any person who became a member
16 prior to January 1, 1990, shall not be less than the accrued
17 benefit of the member ~~under this system~~, determined
18 without regard to any amendment to the ~~system plan~~
19 made after October 14, 1987, and as provided in Section
20 415(b)(10) of the Internal Revenue Code of 1986.

21 (c) The board shall provide to each employer a notice
22 of the content and effect of subdivision (a) for
23 distribution to each person who, for the first time,
24 becomes a member on or after January 1, 1990.

25 *SEC. 78. Section 22317 of the Education Code is*
26 *amended to read:*

27 22317. (a) With respect to members with
28 membership effective dates of December 31, 1989, and
29 earlier, benefit enhancements due to a plan amendment
30 enacted after October 14, 1987, are subject to the
31 limitations imposed by Section 415 of the Internal
32 Revenue Code of 1986 (26 U.S.C.A. Sec. 415).

33 (b) With respect to members with membership
34 effective dates of January 1, 1990, and later, retirement
35 benefits, including enhancements due to a plan
36 amendment, are subject to the limitations imposed by
37 Section 415 of the Internal Revenue Code of 1986.

38 (c) With respect to members ~~or retirees~~ described in
39 subdivision (a) or (b), or beneficiaries of those persons,
40 a change in the benefit structure of the plan pursuant to

1 a plan amendment shall not be subject to Section
2 415(b)(5)(D) of the Internal Revenue Code of 1986 in
3 the case of all plan amendments enacted before, on, or
4 after August 3, 1992.

5 *SEC. 79.* Section 22318 of the Education Code is
6 amended to read:

7 22318. (a) The initial payment to a disabled member
8 or member retired for disability shall be paid within 45
9 days following the date the disability is approved, the
10 effective date of the disability retirement or disability
11 allowance, or receipt of all necessary information,
12 whichever occurs last. Monthly payments shall continue
13 thereafter. Initial payments may be based on a good faith
14 estimated amount pending receipt by the system of all
15 necessary employment, dependent, and other public
16 benefit information.

17 ~~(b) The disabled member or a member retired for~~
18 ~~disability shall be placed on the final roll and issued a~~
19 ~~retroactive payment, if one is due, within 45 days of~~
20 ~~receipt by the system of all necessary information.~~

21 *(b) The allowance payable to a disabled member or*
22 *member retired for disability shall be finalized and a*
23 *retroactive payment, if one is due, shall be issued within*
24 *45 days of receipt by the system of all necessary*
25 *information.*

26 *SEC. 80.* Section 22319 of the Education Code is
27 amended to read:

28 22319. (a) The initial payment to a ~~retirant~~ member
29 retired for service shall be issued within 45 days of either
30 the effective date of retirement or receipt by the system
31 of a completed application for retirement, whichever is
32 later. The initial payment to an option beneficiary shall be
33 issued within 45 days following receipt by the system of
34 a completed application for death benefits and proof of
35 death of the member ~~or retirant~~. Monthly payments shall
36 continue thereafter. Payments may be based on a good
37 faith ~~estimated amount~~ *estimate* pending receipt by the
38 system of all necessary employment information.

39 (b) The ~~retirant~~ ~~or~~ *allowance payable to a member*
40 *retired for service or option beneficiary shall be placed on*

1 ~~the final roll and issued a~~ *finalized and a* retroactive
2 payment, if one is due, *shall be issued* within 45 days of
3 receipt by the system of all necessary information.

4 ~~SEC. 51.—~~

5 *SEC. 81.* Section 22321 of the Education Code is
6 amended to read:

7 22321. The system shall pay ~~the retired member,~~
8 ~~option beneficiary, disabled member, beneficiary, or~~
9 estate interest for delays in excess of the allowable days
10 specified in Sections 22318 to 22320, inclusive. The
11 interest rate for late payments shall be the regular
12 interest rate. Interest payments shall be deemed to be
13 interest earned in the calendar year in which paid. All
14 interest payments under this section shall be paid in
15 addition to any credited interest that is paid.

16 ~~SEC. 52.—~~

17 *SEC. 81.* Section 22322 of the Education Code is
18 amended to read:

19 22322. The system shall ~~make a~~ report *monthly* to the
20 board ~~of~~ on all late payments ~~at each regularly scheduled~~
21 ~~meeting.~~

22 *SEC. 82.* Section 22323 of the Education Code is
23 amended to read:

24 22323. The system shall report monthly to the board
25 concerning outstanding death benefits payable that have
26 not been paid within six months of the notification of the
27 death of the member.

28 ~~SEC. 53.—~~

29 *SEC. 83.* Section 22324 of the Education Code is
30 amended to read:

31 22324. The board shall file an annual report with the
32 Governor and the Legislature by March 1 of each year on
33 all phases of its work that could affect the need for public
34 contributions for costs of administration of the system,
35 including the subjects of benefits, programs, practices,
36 procedures, comments on trends and developments in
37 the field of retirement, and the following information on
38 the assets of the ~~system~~ *plan*:

39 (a) A copy of the annual audit performed pursuant to
40 Section 22217.

(b) A certification letter from the system's consulting actuary concerning the findings of the most recent actuarial valuation, accompanied by summaries of the actuarial cost method, assumptions, and demographic data and analysis of funding progress.

(c) A review of the system's asset mix strategy, a market review or the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(d) A description of the investments of the system at cost and market value, and a summary of major changes that occurred since the previous year.

(e) The following information regarding the rate of return of the system by asset type:

(1) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.

(2) Time-weighted book value rate of return on a five-year, three-year, and one-year basis.

(3) Portfolio return comparisons that compare investment returns with universes and indexes.

(f) A report on the use of outside investment advisers and managers.

(g) A report on shareholder voting.

SEC. 84. Section 22327 of the Education Code is amended to read:

22327. Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability ~~allowance or disability retirement allowance~~ *benefit* from the ~~system plan~~. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving *disability* ~~benefits for a disability allowance or disability retirement allowance~~ from the ~~system plan~~. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing. The board shall notify recipients of disability ~~allowances~~ and ~~disability retirement allowances~~ *benefits* that

1 earnings information from *shall be obtained from* the
2 Employment Development Department's ~~records—will~~
3 ~~be released~~ upon request by the board. The board shall
4 not release any earnings information received from the
5 Employment Development Department to any person,
6 agency, or other entity. The system shall reimburse the
7 Employment Development Department for all
8 reasonable administrative expenses incurred pursuant to
9 this section.

10 *SEC. 85. Section 22328 of the Education Code is*
11 *amended to read:*

12 22328. (a) Upon termination of a retirement
13 allowance or disability allowance that began to accrue on
14 or after July 1, 1972, the person's individual account shall
15 be credited with the amount of his or her accumulated
16 retirement contributions as they were on the effective
17 date of retirement or disability, less the sum of all
18 payments made under paragraph (1) of subdivision (a)
19 of Section 24202, and under Sections 24006 and 24007. The
20 reduction shall not be greater than the total of the
21 accumulated retirement contributions.

22 (b) Upon the termination of a retirement allowance,
23 the person's accumulated annuity deposit contribution
24 accounts shall be credited with the amounts of the
25 contributions as they were on the date the annuity
26 became payable because of the retirement less the sum
27 of all payments made under paragraph (2) of subdivision
28 (a) of Section 24202.

29 ~~SEC. 54.—~~

30 *SEC. 86. Section 22329 of the Education Code is*
31 *amended to read:*

32 22329. In order to provide equitable telephone
33 assistance to all members, *and* beneficiaries, ~~and~~
34 ~~retirees~~, regardless of their location in California, the
35 system shall install a toll-free, "800" prefix, line.

36 *SEC. 87. Section 22330 of the Education Code is*
37 *amended to read:*

38 22330. (a) The board shall provide the Legislature
39 with an analysis of the asset and liability implications of
40 each bill that would affect the investment strategy of the



1 system, the funding of the ~~system~~ *plan*, or the benefit
2 structure of the ~~system~~ *plan*. The analysis shall include an
3 explanation of the methodology employed and the
4 assumptions used in its preparation. Neither fiscal
5 committee of the Legislature shall hear any such bill until
6 the analysis has been provided to the committee.

7 (b) There is hereby continuously appropriated,
8 without regard to fiscal years, from the retirement fund,
9 an amount sufficient to pay all costs arising from
10 subdivision (a), but not to exceed fifty thousand dollars
11 (\$50,000) in any one fiscal year.

12 *SEC. 88. Section 22334 of the Education Code is*
13 *repealed.*

14 ~~22334. (a) The board shall develop an alternative~~
15 ~~retirement plan to be known as Plan II. For the purposes~~
16 ~~of this section, Plan I refers to the retirement plan set out~~
17 ~~in this part.~~

18 ~~(b) The benefits to be included in Plan II shall provide~~
19 ~~a member, when coupled with Social Security, with an~~
20 ~~adequate retirement benefit.~~

21 ~~(c) Plan II shall be actuarially sound and funded~~
22 ~~within the rates presently being contributed by the~~
23 ~~school employer and the employee.~~

24 ~~(d) The Legislature reserves the right to modify the~~
25 ~~benefits contained in Plan II at any future date if the cost~~
26 ~~of the plan increases as a result of changes in actuarial~~
27 ~~assumptions.~~

28 ~~(e) The board shall submit a recommendation to the~~
29 ~~Legislature by March 1, 1989.~~

30 *SEC. 89. Section 22335 of the Education Code is*
31 *amended to read:*

32 22335. (a) All moneys in the ~~Teacher~~ *Teachers*
33 Tax-Sheltered Annuity Fund are continuously
34 appropriated to the board for disbursement for the
35 purposes of the tax-sheltered annuity plan previously
36 provided under this part.

37 (b) The board may provide by board rule for optional
38 forms of payment from the ~~Teacher~~ *Teachers*
39 Tax-Sheltered Annuity Fund.

1 (c) The ~~Teacher~~ *Teachers* Tax-Sheltered Annuity
2 Fund as it existed on December 31, 1994, shall continue
3 to exist for purposes of this section.

4 (d) This section shall cease to be operative 180 days
5 after the date that an annuity contract and custodial
6 account established pursuant to Chapter 36
7 (commencing with Section 24950) becomes operative.
8 On the date this section ceases to be operative this section
9 is repealed unless a statute that is enacted before that date
10 deletes or extends that date.

11 *SEC. 90. Section 22358 of the Education Code is*
12 *amended to read:*

13 22358. The board shall submit a review of the ~~system's~~
14 *plan's* assets to the Legislature on a quarterly basis, which
15 shall include all of the following:

16 (a) Concentration and current holdings at cost and
17 market value of all assets by type.

18 (b) Rate of return of the fund by type of asset.

19 (c) Portfolio return comparisons that compare
20 investment returns with universes and indexes.

21 *SEC. 91. Section 22360 of the Education Code is*
22 *amended to read:*

23 22360. (a) Notwithstanding any other provision of
24 law, the board may, pursuant to Section 22203 and in
25 conformance with its fiduciary duty as set forth in Section
26 22250, enter into correspondent agreements with private
27 institutions in this state to utilize the retirement fund to
28 assist members through financing, to obtain homes in this
29 state.

30 (b) The terms and conditions of the correspondent
31 agreements shall address all of the following:

32 (1) That home loans be made available to eligible
33 members for the purchase of single-family dwellings,
34 two-family dwellings, three-family dwellings, four-family
35 dwellings, single-family cooperative apartments, and
36 single-family condominiums.

37 (2) That the private lending institution shall originate
38 and service these home loans.

39 (3) That the recipients of the loans occupy the homes
40 as their permanent residences pursuant to rules and

1 regulations adopted by the board or as these terms are
2 defined in the correspondent agreements.

3 (4) That home loans shall be available only for the
4 purchase of homes in this state.

5 (5) That the amount and length of the loans shall
6 include terms and conditions that set a loan to value ratio
7 of: (A) for the first loan, except for three-family dwellings
8 and four-family dwellings, a maximum of 95 percent of
9 the first loan; (B) for the first loan on three-family
10 dwellings and four-family dwellings, a maximum of 90
11 percent of the first loan; and (C) for each additional loan,
12 a maximum of 80 percent of each additional loan. The
13 portion of any loan exceeding 80 percent of value shall be
14 insured by an admitted mortgage guaranty insurer
15 conforming to Chapter 2A (commencing with Section
16 12640.01) of Part 6 of Division 2 of the Insurance Code in
17 an amount so that the unguaranteed portion of the loan
18 does not exceed 75 percent of the market value of the
19 property together with improvements thereon.

20 (6) That there may be prepayment penalties assessed
21 on loans, the terms and conditions of which shall be set
22 forth in the correspondent agreement.

23 (7) That the criteria and terms for loans shall provide
24 the greatest benefit to eligible members consistent with
25 the financial integrity of the program and the sound
26 investment of the retirement fund.

27 (8) That loans shall not be made at a rate lower than
28 the market rate.

29 (9) Any other terms and conditions as the parties to
30 the correspondent agreement may deem appropriate.

31 (c) This section shall be known and may be cited as the
32 Dave Elder State Teachers' Retirement System Member
33 Home Loan Program Act.

34 ~~SEC. 55.—~~

35 *SEC. 92.* Section 22361 of the Education Code is
36 amended to read:

37 22361. (a) The board may, subject to and consistent
38 with its fiduciary duty, establish a program utilizing the
39 retirement fund to assist currently employed members
40 and retired members who are victims of a natural disaster

1 to obtain loans from the retirement fund for the sole
2 purpose of repairing or rebuilding their homes that have
3 been damaged by a natural disaster. In order to qualify for
4 such a loan, the home of the currently employed member
5 or retired member shall have been damaged by a natural
6 disaster and the home shall have been in an area that has
7 been declared a disaster area in a proclamation of the
8 Governor of a state of emergency affecting the area in
9 which the currently employed member or retired
10 member resides.

11 (b) The board may loan any amount of money, up to
12 and including 100 percent of the current appraised value
13 of a home of a currently employed member or retired
14 member. However, 5 percent of the loan may, at the
15 discretion of the board, be secured by the contributions
16 of the member who requests the loan.

17 (c) The board may, under such conditions as it may
18 deem prudent, require that a currently employed
19 member or retired member pledge other assets as
20 collateral for a loan.

21 (d) The board shall establish terms for the termination
22 of loans made pursuant to this section upon the separation
23 of members from service, to ensure, in the case of any
24 default, that the ~~system~~ *fund* shall not suffer any loss and
25 to provide, as a condition of retirement, for alternative
26 security. The board may impose any other terms and
27 conditions the board may determine appropriate.

28 (e) The Legislature hereby reserves full power and
29 authority to change, revise, limit, expand, or repeal the
30 loan program authorized by this section.

31 ~~SEC. 56.—~~

32 *SEC. 92.5. Section 22362 of the Education Code is*
33 *amended to read:*

34 22362. (a) Notwithstanding any other provision of
35 law, the board shall give first priority to investing not less
36 than 25 percent of all funds *of the plan* that become
37 available in a fiscal year for new investments, in any of the
38 following:

39 (1) Obligations secured by a lien or charge solely on
40 residential realty, including rental housing, located in the

1 state and on the security of which, commercial banks are
2 permitted to make loans pursuant to Article 2
3 (commencing with Section 1220) of Chapter 10 of
4 Division 1 of the Financial Code.

5 (2) Securities representing a beneficial interest in a
6 pool of obligations secured by a lien or charge solely on
7 residential realty located in the state.

8 (3) Certificates of deposit issued by savings and loan
9 associations, if the savings and loan associations agree to
10 make loans, or to fund tax-exempt notes or bonds issued
11 by housing authorities, cities, or counties, on residential
12 realty located in the state, including rental housing, in an
13 amount equal to the amount of the deposit.

14 (b) Funds subject to investment pursuant to this
15 section include all moneys received as employer and
16 member contributions, investment income, and the
17 proceeds from all net gains and losses from securities,
18 reduced by the amount of benefit payments and
19 withdrawals occurring during the fiscal year. In
20 computing the amount of investment pursuant to this
21 section, a dollar-for-dollar credit shall be given for
22 residential realty investments described in this section
23 that are contractually agreed to be made by a financial
24 institution from which the board, in consideration
25 thereof, purchases other such investments. In computing
26 the amount of investment pursuant to this section, the
27 board may elect to include the dollar amount of
28 commitments to purchase mortgages from public
29 revenue bond programs in the year the commitment is
30 given. However, that election may not exceed one-fifth
31 of the total guideline amount.

32 (c) Nothing in this section shall be construed to
33 require the acquisition of any instrument or security at
34 less than the market rate.

35 (d) If the board determines during any fiscal year that
36 compliance with this section will result in lower overall
37 earnings for the *retirement* fund than obtainable from
38 alternative investment opportunities that would provide
39 equal or superior security, including guarantee of yield,
40 the board may substitute those higher yielding

1 investments, to the extent actually available for
2 acquisition, for the investments otherwise specified by
3 this section. Additionally, if, and to the extent that,
4 adherence to the diversification guideline specified in
5 this section would conflict with its fiduciary obligations in
6 violation of Section 9 of Article I of the California
7 Constitution or Section 10 of Article I of the United States
8 Constitution, or would conflict with the standard for
9 prudent investment of the fund as set forth in Section 17
10 of Article XVI of the California Constitution, the board
11 may substitute alternative investments. In that case, the
12 board shall estimate the amount of funds available in
13 substitute alternative investments and the amount of
14 funds invested pursuant to subdivision (a) and shall
15 submit its resolution of findings and determinations,
16 together with a description of the type, quantity, and
17 yield of the investments substituted, to the Governor and
18 to the Joint Legislative Audit Committee within 20 days
19 following the conclusion of the fiscal year. Within 30 days
20 thereafter, the Joint Legislative Audit Committee shall
21 transmit the Auditor General's report to the Speaker of
22 the Assembly and to the Senate Committee on Rules for
23 transmittal to affected policy committees.

24 (e) The board, upon determining the final amount of
25 funds available for investment in substitute alternative
26 investments and the estimated amount of funds invested
27 pursuant to subdivision (a), shall submit that information
28 to the Governor and the Joint Legislative Audit
29 Committee. Thereafter, the Joint Legislative Audit
30 Committee shall transmit the report of the Auditor
31 General to the Speaker of the Assembly and the Senate
32 Committee on Rules for transmittal to the affected policy
33 committees.

34 *SEC. 93. Section 22375 of the Education Code is*
35 *amended to read:*

36 22375. Notwithstanding Section 20205.9 or Part 11
37 (commencing with Section 15850) of Division 3 of Title
38 2 of the Government Code, the board may select,
39 purchase, or acquire in the name of the ~~system~~ *plan*, the
40 fee or any lesser interest in real property, improved or



1 unimproved, and may remodel and equip, or construct an
2 office building in the County of Sacramento for the
3 purposes of establishing a permanent headquarters
4 facility for the system.

5 *SEC. 94. Section 22400 of the Education Code is*
6 *amended to read:*

7 22400. (a) There is in the State Treasury a special
8 trust fund to be known as the Teachers' Retirement
9 Fund. There shall be deposited in that fund the assets of
10 the ~~system~~ plan and its predecessors, consisting of
11 employee contributions, employer contributions, state
12 contributions, appropriations made to it by the
13 Legislature, income on investments, other interest
14 income, income from fees and penalties, donations,
15 legacies, bequests made to it and accepted by the board,
16 and any other amounts provided by this part. General
17 Fund transfers pursuant to Section 22954 shall be placed
18 in a segregated account known as the Supplemental
19 Benefit Maintenance Account within the retirement
20 fund, which is continuously appropriated without regard
21 to fiscal years, notwithstanding Section 13340 of the
22 Government Code, for expenditure for the purposes of
23 Section 24415 and subdivisions (a) and (b) of Section
24 24414.

25 (b) Disbursement of money from the retirement fund
26 of whatever nature shall be made upon claims duly
27 audited in the manner prescribed for the disbursement
28 of other public funds except that notwithstanding the
29 foregoing disbursements may be made to return funds
30 deposited in the fund in error.

31 *SEC. 95. Section 22450 of the Education Code is*
32 *amended to read:*

33 22450. (a) Each member and beneficiary shall
34 furnish to the board any information affecting his or her
35 status as a member or beneficiary of the plan as the board
36 requires.

37 (b) A member who has not had any service reported
38 during the prior school year shall provide the system with
39 his or her current mailing address and beneficiary
40 information.

1 ~~SEC. 57.—~~

2 SEC. 96. Section 22451 of the Education Code is
3 amended to read:

4 22451. (a) Each member shall file a statement with
5 the board, at the option of, and upon the form furnished
6 by, the ~~board~~ system, giving the following information:

7 (1) ~~His or her date~~ Date of birth.

8 (2) All service previously performed ~~by him or her in~~
9 ~~a position requiring membership in the system subject to~~
10 ~~coverage by the plan~~ or its predecessors.

11 (b) Each person becoming a member on or after
12 January 1, 1983, shall include in the health résumé
13 required by the teacher preparation and licensing agency
14 all information that shall verify any and all handicaps and
15 disabling conditions at the time of application. Upon
16 request by the system this information shall be made
17 available when ~~a person applies for a disability allowance~~
18 ~~an application for disability benefits is received~~.

19 SEC. 96.5. Section 22453 of the Education Code is
20 amended to read:

21 22453. (a) Except as provided in Section 22454, the
22 signature of the spouse of a member shall be required on
23 any application for, or cancellation of, an unmodified
24 allowance, the election, *change*, or cancellation of an
25 option, request for a refund of the member's accumulated
26 retirement contributions or accumulated annuity deposit
27 contributions, or other requests related to the selection of
28 benefits by a member in which a spousal interest may be
29 present, unless the member declares, in writing, under
30 penalty of perjury, that one of the following conditions
31 exists:

32 (1) The member does not know, and has taken all
33 reasonable steps to determine, the whereabouts of the
34 spouse.

35 (2) The spouse is incapable of executing the
36 acknowledgment because of an incapacitating mental or
37 physical condition.

38 (3) The member and spouse have executed a marriage
39 settlement agreement pursuant to Part 5 (commencing
40 with Section 1500) of Division 4 of the Family Code that

1 makes the community property law inapplicable to the
2 marriage.

3 (4) The member is not married.

4 (5) The current spouse has no identifiable community
5 property interest in the benefit.

6 (b) This section is not applicable to an application for
7 a disability allowance.

8 (c) The sole purpose of this section is to provide for
9 spousal protection in the selection of specified benefits
10 made by a member.

11 ~~SEC. 58.—~~

12 *SEC. 97.* Section 22454 of the Education Code is
13 amended to read:

14 22454. If a spouse refuses to sign an application, as set
15 forth in Section 22453, the member may bring an action
16 in court to enforce the spousal signature requirement or
17 to waive the spousal signature requirement. Either party
18 may bring an action pursuant to Section 1101 of the
19 Family Code to determine the rights of the party.

20 ~~SEC. 59.—~~

21 *SEC. 98.* *Section 22455.5 of the Education Code is*
22 *amended to read:*

23 22455.5. (a) The Legislature finds and declares that
24 the federal Omnibus Budget Reconciliation Act of 1990
25 (P.L. 101-508) requires all public employers to provide
26 their employees with either social security coverage or
27 membership in a qualified retirement plan.

28 (b) ~~Employing—agencies~~ *Employers* shall make
29 available criteria for membership, including optional
30 membership, in a timely manner to all—~~certificated~~
31 ~~employees~~ *persons employed to perform creditable*
32 *service subject to coverage by the plan*, and shall inform
33 part-time and substitute—~~certificated~~ employees, within
34 30 days of *the date of hire date*, or by March 1, 1995,
35 whichever is later, that they may elect membership in the
36 ~~system~~ *plan* at any time while employed. Written
37 acknowledgment by the employee shall be maintained in
38 employer files on a form provided by this system.

39 (c) ~~Employing—agencies~~ *Employers* shall be liable to
40 the ~~system~~ *plan* for employee and employer

1 contributions and interest from the date of hire, or March
2 1, 1995, whichever is later, in addition to system
3 administrative and audit costs, if an audit or a member's
4 complaint reveals noncompliance. However, no
5 employer shall be liable for employee contributions for
6 service performed prior to January 1, 1995.

7 *SEC. 99. Section 22456 of the Education Code is*
8 *amended to read:*

9 22456. At any time upon the request of the system, the
10 ~~employing agency~~ employer shall furnish a statement of
11 the amount of contributions deducted from ~~the~~ salary
12 ~~payments~~ of any member, the ~~services~~ service performed
13 and the salary earned by ~~him or her~~ the member since the
14 end of the period covered by the last report of the
15 ~~superintendent or~~ employer. The system may use the
16 information shown in the statement in determining
17 contributions to be paid by or to the member or to a
18 beneficiary, or use it in determining the member's status
19 upon retirement, even though the member's and
20 employer's contributions will not be received by the
21 board until after the payment or determination.

22 *SEC. 100. Section 22457 of the Education Code is*
23 *amended to read:*

24 22457. (a) Each county superintendent shall give
25 immediate notice in writing to the board of the
26 employment, death, resignation, or discharge of any
27 person employed by the county or by a school district or
28 community college district in the county to perform
29 creditable service subject to coverage by the plan.

30 (b) Every other employing agency shall give similar
31 notice with respect to each person it employs to perform
32 creditable service subject to coverage by the plan.

33 ~~SEC. 60.—~~

34 *SEC. 101. Section 22458 of the Education Code is*
35 *amended to read:*

36 22458. Each ~~employing agency~~ employer shall
37 provide the system with ~~copies of documents respecting~~
38 *information regarding* the compensation to be paid to
39 employees *subject to the plan* in that school year. The
40 ~~documents~~ *information* shall be submitted annually as

determined by the board and may include, but shall not be limited to, employment contracts, salary schedules, and local board minutes.

SEC. 102. Section 22459 of the Education Code is amended to read:

22459. (a) The county superintendent or other employing agency shall withhold the salary of any member who fails to file information required by the board in the administration of the ~~system plan~~, or to pay amounts due from the members to the ~~system plan~~.

(b) The salary shall be withheld by the county superintendent or employing agency upon his or her own knowledge, if any, of the failure or upon notice from the board of the failure of the ~~teacher member~~ to file or pay.

(c) The salary shall be withheld and not released until notice is given by the board to the county superintendent or employing agency, or until the county superintendent or agency knows otherwise, that the information has been filed or the payment has been made.

SEC. 103. Section 22460 of the Education Code is amended to read:

~~22460. Employing school districts and other employing agencies~~ Employers shall notify all members who terminate employment with less than five years' credited California service that the only benefit for which they are eligible at any time is the refund of accumulated contributions, the rate of interest that will be earned, and actions that may be taken by the board if the contributions are not withdrawn. ~~Employing school districts and other employing agents~~ Employers shall transmit the information to the member as part of the usual separation documents.

SEC. 104. Section 22461 of the Education Code is amended to read:

22461. (a) Upon retaining the services of a retired member ~~as an employee~~ under Section 24116, 24214, or 24215, the school district, community college district, county superintendent of schools, California State University, or other employing agency shall do both of the following *regardless of whether the retired member*

1 *performs the services as an employee of the employer, an*
2 *employee of a third party, or an independent contractor:*

3 (1) Advise the retired member of the earnings
4 limitation set forth in Sections 24116, 24214, and 24215.

5 (2) Maintain accurate records of the retired member's
6 earnings and report those earnings monthly to the system
7 and the retired member regardless of the method of
8 payment or the fund from which the payments were
9 made.

10 (b) This section shall not be construed to make any
11 school district, community college district, county
12 superintendent of schools, the California State
13 University, or other employing agency liable for any
14 amount paid to the retired member in excess of the
15 earnings limitation under any circumstance, including
16 the failure to inform the ~~retirant~~ *retired member* that
17 continuation of service would exceed the limitations.

18 ~~SEC. 61.—~~

19 *SEC. 105.* Section 22500 of the Education Code is
20 amended to read:

21 22500. All persons who were members of the
22 California State Teachers' Retirement System on June 30,
23 1996, are members of the Defined Benefit Plan.

24 ~~SEC. 62.—~~

25 *SEC. 106.* Section 22501 of the Education Code is
26 repealed.

27 ~~SEC. 63.—~~

28 *SEC. 107.* Section 22501 is added to the Education
29 Code, to read:

30 22501. All persons employed to perform creditable
31 service as defined in Section 22119.5 are members of the
32 plan as of the first day of employment, unless excluded
33 from membership pursuant to Chapter 11 (commencing
34 with Section 22600). Creditable service in more than one
35 position shall not be aggregated for the purpose of
36 determining mandatory membership in the plan. This
37 section shall be deemed to have become operative on July
38 1, 1996.

39 *SEC. 108.* Section 22510 of the Education Code is
40 amended to read:

1 22510. Members who on January 1, 1976, are in state
2 service positions according to former Section 13948 as it
3 read on December 31, 1975, or who are employees of the
4 Trustees of the California State University, may elect in
5 writing prior to July 1, 1976, not to continue as members
6 of this system and to transfer membership to the Public
7 Employees' Retirement System. Failure to execute and
8 file the election, which shall be received in the office of
9 this system by the close of business on June 30, 1976, shall
10 be deemed a decision to remain as a member of this
11 ~~system~~ *the plan*.

12 *SEC. 109. Section 22511 of the Education Code is*
13 *amended to read:*

14 22511. Members eligible to elect under Section 22510
15 and who elect to retain membership in ~~this system~~ *the*
16 *plan* shall be eligible only for those benefits available for
17 all other members ~~of this system, and not~~ *and shall not be*
18 eligible for the benefits of the Berryhill Total
19 Compensation Act, as amended, except for the reduced
20 hospitalization insurance premiums. These members
21 shall not be considered eligible for any additional benefits
22 that may accrue to other state employees.

23 *SEC. 110. Section 22513 of the Education Code is*
24 *amended to read:*

25 22513. Members who elect membership in the Public
26 Employees' Retirement System and have achieved plan
27 vesting according to Section 22173 shall retain the vested
28 rights to survivor and disability benefits under ~~this system~~
29 *plan* until they qualify for the similar benefits in the
30 Public Employees' Retirement System.

31 *SEC. 111. Section 22514 of the Education Code is*
32 *amended to read:*

33 22514. Members who have not achieved plan vesting
34 shall become eligible for benefits under this plan when
35 total service under ~~both systems~~ *this plan and the Public*
36 *Employees' Retirement System* equals the minimum
37 required under Sections 23801 and 23804. These members
38 shall retain vested rights to survivor and disability
39 benefits under this plan until they qualify for the similar
40 benefits in the Public Employees' Retirement System.

~~SEC. 64.~~

SEC. 112. Section 22515 of the Education Code is amended to read:

22515. Persons excluded from membership pursuant to Sections 22601.5, 22602, ~~22603~~, and 22604 may elect membership in the plan at any time while ~~employed in a substitute or part-time position that does not qualify for mandatory membership in this plan~~ employed to perform creditable service. The election is irrevocable, shall be in writing, and shall be filed in the office of this system prior to submission of contributions. *The amendments to this section enacted during the 1995-96 Regular Session shall be deemed to have become operative on July 1, 1996.*

~~SEC. 65.~~

SEC. 113. Section 22516 of the Education Code is amended to read:

22516. (a) Nothing in this chapter shall be construed or applied to exclude from membership in this plan any person employed to perform creditable service at a level that requires mandatory membership in this plan for which he or she has the right to elect membership in this plan or another retirement system and who elects membership in the other retirement system, or who is employed to perform creditable service at a level that does not require mandatory membership in this plan.

(b) Service performed after becoming a member of ~~the other plan~~ another retirement system shall not be credited to the member under this ~~system~~ plan, nor shall contributions or benefits under this plan be based upon that service or the compensation received by the member during that period of service, except as provided in the definition of “final compensation” contained in Section 22133.

~~SEC. 66. Section 22600 of the Education Code is amended to read:~~

~~22600. Persons employed to perform creditable service for 50 percent or more of the full-time equivalent for the position, but who are members of a local system or a county retirement system are excluded from~~

1 ~~membership in this plan. A person so excluded shall retain~~
2 ~~the right to receive a retirement allowance for nonlocal~~
3 ~~service that is creditable in the system unless he or she~~
4 ~~withdraws his or her contributions for that allowance.~~

5 ~~SEC. 67. Section 22601.5 is added to the Education~~
6 ~~Code, to read:~~

7 ~~22601.5. All persons, who are not already members,~~
8 ~~and who are employed on and after July 1, 1996, to~~
9 ~~perform creditable service for less than 50 percent of the~~
10 ~~full-time equivalent for the position are excluded from~~
11 ~~mandatory membership in the plan.~~

12 ~~SEC. 68.—~~

13 *SEC. 114. Section 22601 of the Education Code is*
14 *amended to read:*

15 22601. Persons serving as exchange teachers or
16 sojourn teachers from outside of this state are excluded
17 from membership in the ~~system~~ plan.

18 *SEC. 115. Section 22601.5 is added to the Education*
19 *Code, to read:*

20 22601.5. (a) *Persons who are not already members of*
21 *the plan who are employed to perform creditable service*
22 *and whose basis of employment is less than 50 percent of*
23 *the full-time equivalent for the position are excluded*
24 *from mandatory membership in the plan.*

25 (b) *Persons whose basis of employment to perform*
26 *creditable service changes to 50 percent or more of the*
27 *full-time equivalent for the position shall become*
28 *members of the plan on the first day of the pay period in*
29 *which the change in the basis of employment occurred.*

30 (c) *This section shall apply to persons employed by*
31 *employers who provide benefits for their employees*
32 *under Part 14 (commencing with Section 26000).*

33 (d) *This section shall be deemed to have become*
34 *operative on July 1, 1996.*

35 *SEC. 116. Section 22602 of the Education Code is*
36 *amended to read:*

37 22602. (a) ~~Persons employed on a substitute basis,~~
38 ~~who are not already members when they become of the~~
39 ~~plan who are employed as substitutes~~ and who perform
40 less than 100 complete days of creditable service during

1 the school year are excluded from *mandatory*
2 membership in the plan.

3 (b) Persons employed ~~on a substitute basis~~ as
4 *substitutes* who have performed 100 or more complete
5 days of ~~substitute~~ *creditable* service in one school district,
6 *community college district*, or county superintendent's
7 office in that school year shall become members on the
8 first day of the *pay period* following ~~the~~ pay period ~~during~~
9 in which the *creditable* service in excess of 100 days was
10 performed.

11 (c) This section shall *not* apply to employers who ~~do~~
12 ~~not~~ provide benefits for their employees under Part 14
13 (commencing with Section 26000).

14 (d) *The amendments to this section enacted during*
15 *the 1996-96 Regular Session shall be deemed to have*
16 *become operative on July 1, 1996.*

17 ~~SEC. 69.~~

18 *SEC. 117.* Section 22604 of the Education Code is
19 amended to read:

20 22604. (a) Persons ~~employed on a part-time basis~~
21 who are not already members ~~when they become of the~~
22 *plan who are employed on a part-time basis*, and who
23 perform less than 60 hours of *creditable* service per pay
24 period *if employed on an hourly basis*, or less than 10 days
25 of *creditable* service in a pay period *if employed* on a daily
26 basis, are excluded from *mandatory* membership in the
27 plan.

28 (b) Persons employed on a part-time basis who have
29 performed 60 or more hours of *creditable* service in a pay
30 period, or 10 or more days of *creditable* service in a pay
31 period ~~on a daily basis~~ in one school district, community
32 college district, or county superintendent's office shall
33 become members on the first day of the ~~following pay~~
34 ~~period during which the service~~ *pay period following the*
35 *pay period in which the creditable service* in excess of 60
36 hours or 10 days was performed.

37 (c) This section shall *not* apply to employers who ~~do~~
38 ~~not~~ provide benefits for their employees under Part 14
39 (commencing with Section 26000).

(d) *The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.*

~~SEC. 70. Section 22605 is added to the Education Code, to read:~~

~~22605. Persons not already members who are employed as part-time teachers and who are concurrently employed in full-time positions as members of another retirement system, or a system administered and supported by the United States government, supported wholly or in part by the public funds are excluded from membership in the system.~~

~~SEC. 71.—~~

SEC. 118. Section 22650 of the Education Code is amended to read:

22650. This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in accounts with the plan and establishes and defines the rights of nonmember spouses in the plan.

~~SEC. 72.—~~

SEC. 119. Section 22651 of the Education Code is amended to read:

22651. For purposes of this chapter and Section 23300, “nonmember spouse” means the spouse or former spouse who is being or has been awarded a community property interest in the service credit and accumulated retirement contributions or the benefits of a member. A nonmember spouse who is awarded a separate account of service credit and accumulated retirement contributions ~~is not a member. A nonmember spouse~~ or who receives a retirement allowance ~~or, or who~~ is awarded an interest in a *member’s* retirement allowance ~~of a retiree~~ is not a member.

~~SEC. 73.—~~

SEC. 120. Section 22653 of the Education Code is amended to read:

22653. The nonmember spouse who is awarded a separate account pursuant to Section 22652 is not a member *of the plan based on that award.* The

1 nonmember spouse is entitled only to rights and benefits
2 *based on that award* explicitly established by this chapter.

3 (b) *This section shall not be construed to limit any*
4 *right arising from the account of a nonmember spouse*
5 *under this part that exists because the nonmember*
6 *spouse is or was employed to perform creditable service*
7 *subject to coverage by the plan.*

8 ~~SEC. 74. Section 22654 of the Education Code is~~
9 ~~amended to read:~~

10 ~~22654. The nonmember spouse is entitled to no~~
11 ~~benefits or rights from the separate account except as~~
12 ~~otherwise provided in this chapter. However, this section~~
13 ~~shall not be construed to limit any right arising from the~~
14 ~~account of a nonmember spouse under this part which~~
15 ~~exists because the nonmember spouse is employed to~~
16 ~~perform creditable service subject to coverage by the~~
17 ~~plan.~~

18 ~~SEC. 75.—~~

19 ~~SEC. 121. Section 22654 of the Education Code is~~
20 ~~repealed.~~

21 ~~22654. The nonmember spouse is entitled to no~~
22 ~~benefits or rights from the separate account except as~~
23 ~~otherwise provided in this chapter. However, this section~~
24 ~~shall not be construed to limit any right arising from the~~
25 ~~account of a nonmember with the system which exists~~
26 ~~because the nonmember spouse is employed in a position~~
27 ~~requiring membership in the system.~~

28 ~~SEC. 122. Section 22655 of the Education Code is~~
29 ~~amended to read:~~

30 ~~22655. (a) Upon the legal separation or dissolution of~~
31 ~~marriage of a retired member, the court may include in~~
32 ~~the judgment or court order a determination of the~~
33 ~~community property rights of the parties in the~~
34 ~~retirement allowance of the retired member consistent~~
35 ~~with this section. Upon election under paragraph (4)~~
36 ~~subparagraph (B) of paragraph (3) of subdivision (a) of~~
37 ~~Section 2610 of the Family Code, the court order~~
38 ~~awarding the nonmember spouse a community property~~
39 ~~share in the benefits of a retired member shall be~~
40 ~~consistent with this section.~~

1 ~~(a)~~

2 (b) If the court does not award the entire retirement
3 allowance to the retired member and the retired
4 member is receiving a retirement allowance ~~under any~~
5 ~~section other than~~ *that has not been modified pursuant to*
6 Section 24300, the court shall require only that the system
7 pay the nonmember spouse, by separate warrant *from*
8 *the plan*, his or her community property share of the
9 retirement allowance of the retired member.

10 ~~(b)~~

11 (c) If the court does not award the entire retirement
12 allowance to the retired member and the retired
13 member is receiving an allowance which has been
14 actuarially modified pursuant to Section 24300, the court
15 shall order only one of the following:

16 (1) The retired member shall maintain the retirement
17 allowance without change.

18 (2) The retired member shall cancel the *option under*
19 *which the* retirement allowance *is modified* pursuant to
20 Section 24305 and select a new joint and survivor option
21 or a new beneficiary or both, and the system shall pay the
22 nonmember spouse, by separate warrant *from the plan*,
23 his or her community property share of the retirement
24 allowance of the retired member, the option beneficiary,
25 or both.

26 (3) The retired member shall cancel the *option under*
27 *which the* retirement allowance *is modified* pursuant to
28 Section 24305 and select an unmodified retirement
29 allowance and the system shall pay the nonmember
30 spouse, by separate warrant *from the plan*, his or her
31 community property share of the retirement allowance
32 of the retired member.

33 ~~(c)~~

34 (d) If the option beneficiary, other than the
35 nonmember spouse, predeceases the retired member,
36 the court shall order the retired member to select a new
37 option beneficiary pursuant to Section 24306 and shall
38 order the system to pay the nonmember spouse, by
39 separate warrant *from the plan*, his or her share of the
40 community property interest in the retirement

1 allowance of the retired member or the new option
2 beneficiary, or both.

3 ~~(d)~~

4 (e) The right of the nonmember spouse to receive his
5 or her community property share *of the retirement*
6 *allowance of the retired member* under this section shall
7 terminate upon the death of the nonmember spouse.
8 However, the nonmember spouse may designate a
9 beneficiary to receive his or her community property
10 share of *the retired member's* accumulated retirement
11 contributions in the event that accumulated retirement
12 contributions become payable.

13 ~~SEC. 76.—~~

14 *SEC. 122.5. Section 22656 of the Education Code is*
15 *amended to read:*

16 22656. No judgment or court order issued pursuant to
17 this chapter is binding on the ~~system~~ *plan* until the ~~system~~
18 *plan* has been joined as a party to the action and has been
19 served with a certified copy of the judgment or court
20 order.

21 *SEC. 123. Section 22657 of the Education Code is*
22 *amended to read:*

23 22657. (a) The following provisions shall apply to a
24 nonmember spouse as if he or she were a member:
25 Sections 22107, 22306, 22906, 23802, subdivisions (a) and
26 (b) of Section 24600, 24601, 24602, 24603, 24605, 24606,
27 24607, 24608, 24611, 24612, 24613, 24616, and 24617.

28 (b) Notwithstanding subdivision (a), this section shall
29 not be construed to establish any right for the
30 nonmember spouse that is not explicitly established in
31 Sections 22650 to 22655, inclusive, and Sections 22658 to
32 22665, inclusive.

33 ~~SEC. 77.—~~

34 *SEC. 123.5. Section 22658 of the Education Code is*
35 *amended to read:*

36 ~~22658. (a) All separate accounts of a nonmember~~
37 ~~spouse shall be administered separately. Accumulated~~

38 22658. (a) *A separate account awarded to a*
39 *nonmember spouse pursuant to Section 22652 shall be*
40 *administered independently of the member's account.*

(b) Accumulated contributions, service credit, and final compensation attributable to a separate account of a nonmember spouse shall not be combined in any way or for any purpose with the accumulated contributions, service credit, and final compensation of any other separate account of the nonmember spouse.

~~(b)–~~

(c) Accumulated contributions, service credit, and final compensation attributable to the separate account of a nonmember spouse shall not be combined in any way or for any purpose with the accumulated contributions, service credit, and final compensation of an account that exists because the nonmember spouse is employed or has been employed to perform creditable service subject to coverage by the plan.

~~SEC. 78.—~~

SEC. 124. Section 22659 of the Education Code is amended to read:

22659. Upon being awarded a separate account or an interest in the retirement allowance of a ~~retirant~~ retired member, a nonmember spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

SEC. 125. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account shall have the right to a refund of the accumulated retirement contributions in the separate account of the nonmember spouse.

~~(a) The right of the nonmember spouse to a refund of accumulated retirement contributions is subject to Section 23105.~~

(b) The nonmember spouse shall file an application on a form provided by the system to obtain the refund.

(c) The refund is effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file in the system. If the nonmember spouse has elected on a form provided

1 by the system to transfer all or a specified portion of the
2 accumulated contributions that are eligible for direct
3 trustee-to-trustee transfer to the trustee of a qualified
4 plan under Section 402 of the Internal Revenue Code of
5 1986 (26 U.S.C.A. Sec. 402), deposit in the United States
6 mail of a notice that the requested transfer has been made
7 constitutes a return of the nonmember spouse's
8 accumulated contributions.

9 (d) The nonmember spouse is deemed to have
10 permanently waived all rights and benefits pertaining to
11 the service credit and represented by the accumulated
12 retirement contributions when the refund becomes
13 effective.

14 (e) The nonmember spouse may not cancel a refund
15 after the refund is effective.

16 (f) The nonmember spouse shall have no right to elect
17 to redeposit the refunded accumulated retirement
18 contributions after the refund is effective and shall have
19 no right to redeposit under Section 22662 or purchase
20 additional service credit under Section 22663 after the
21 refund becomes effective.

22 (g) If the total service credit in the separate account
23 of the nonmember spouse, including service credit
24 purchased under Sections 22662 and 22663, is less than two
25 and one-half years, the board shall refund the ~~balance of~~
26 *accumulated retirement contributions* in the account.

27 *SEC. 126. Section 22662 of the Education Code is*
28 *amended to read:*

29 22662. The nonmember spouse who is awarded a
30 separate account may redeposit accumulated retirement
31 contributions previously refunded to the member in
32 accordance with the determination of the court ~~required~~
33 *by pursuant to* Section 22652.

34 (a) The nonmember spouse may redeposit only those
35 accumulated retirement contributions that were
36 previously refunded to the member and ~~that in which~~ the
37 court has determined ~~to be~~ *the nonmember spouse has a*
38 *community property interest of the nonmember spouse*
39 ~~in the accumulated retirement contributions.~~

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order addressing the redeposit rights of the nonmember spouse is entered. The nonmember spouse shall elect to redeposit on a form provided by the system within 30 days after the system mails ~~the~~ *an* election form and the billing.

(c) If the nonmember spouse elects to redeposit, he or she shall repay the accumulated retirement contributions and shall pay regular interest from the date of the refund to the date of payment.

(d) An election to redeposit shall be considered an election to repay all accumulated retirement contributions previously refunded *in which the nonmember spouse has a community property interest.* All payments shall be received by the system before the effective date of retirement of the nonmember spouse. If any payment due because of the election is not received at the *system's office in Sacramento* ~~office of the system~~ within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(e) The right of the nonmember spouse to redeposit shall be subject to Section 23203.

(f) The member shall ~~have no~~ *not have a* right to redeposit the share of the nonmember spouse in the previously refunded accumulated retirement contributions whether or not the nonmember spouse elects to redeposit. However, any previously refunded accumulated retirement contributions not explicitly awarded to the nonmember spouse by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 127. Section 22663 of the Education Code is amended to read:

22663. The nonmember spouse who is awarded a separate account shall have the right to purchase additional service credit in accordance with the determination of the court ~~required by~~ *pursuant to* Section 22652.

1 (a) The nonmember spouse may purchase only the
2 service credit that the court, pursuant to Section 22652,
3 has determined to be the community property interest of
4 the nonmember spouse.

5 (b) The nonmember spouse shall inform the system in
6 writing of his or her intent to purchase additional service
7 credit within 180 days after the date the judgment or
8 court order addressing the right of the nonmember
9 spouse to purchase additional service credit is entered.
10 The nonmember spouse shall elect to purchase additional
11 service credit on a form provided by the system within 30
12 days after the system mails ~~the~~ *an* election form and ~~the~~
13 billing.

14 (c) If the nonmember spouse elects to purchase
15 additional service credit, he or she shall pay, prior to
16 retirement, all contributions with respect to the
17 additional service at the contribution rate for additional
18 service credit in effect at the time of election and regular
19 interest from July 1 of the year following the year upon
20 which contributions are based.

21 (1) (A) The nonmember spouse shall purchase
22 additional service credit by paying the required
23 contributions and interest in one lump sum, or in not
24 more than 60 monthly installments, provided that no
25 installment, except the final installment, shall be less than
26 twenty-five dollars (\$25). Regular interest shall be
27 charged on the monthly unpaid balance if the
28 nonmember spouse pays in installments.

29 (B) If any payment due because of the election is not
30 received at the *system's office in* Sacramento ~~office of the~~
31 ~~system~~ within 120 days of its due date, the election shall
32 be canceled and any payments made under the election
33 shall be returned to the nonmember spouse.

34 (2) The contributions shall be based on the *member's*
35 compensation earnable ~~of the member~~ in the most recent
36 school year during which the member was employed,
37 preceding the date of separation established by the court
38 pursuant to Section 22652.

(3) All payments of contributions and interest shall be received by the system before the effective date of the retirement of the nonmember.

(d) The nonmember spouse shall ~~have no~~ *not have a* right to purchase additional service credit after the effective date of a refund of the accumulated *retirement* contributions in the separate account of the nonmember spouse.

(e) The member ~~has no right~~ *shall not have a right* to purchase the community property interest of the nonmember spouse of additional service credit whether or not the nonmember spouse elects to purchase the additional service credit. However, any additional service credit eligible for purchase that is not explicitly awarded to the nonmember spouse by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 128. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance.

(a) The nonmember spouse shall be eligible to retire for service if the following conditions are satisfied:

(1) The member had performed at least five years of creditable California service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated *retirement* contributions, if five of the member's six years of credited service immediately before the dissolution or legal separation had been in California. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, and permissive service credit which the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least two and one-half years of credited service in his or her separate account.

1 (3) The nonmember spouse has attained the age of 55
2 years or more.

3 (b) A service retirement allowance of a nonmember
4 spouse shall become effective upon any date designated
5 by the nonmember spouse, provided:

6 (1) The requirements of subdivision (a) are satisfied.

7 (2) The nonmember spouse has filed an application for
8 service retirement on a form provided by the system,
9 which is executed no earlier than six months before the
10 effective date of the retirement allowance.

11 (3) The effective date is no earlier than the first day of
12 the month in which the application is received ~~by~~ *at* the
13 ~~system~~ *system's office* in Sacramento and the effective
14 date is after the date the judgment was entered.

15 (c) Upon service retirement *at or over normal*
16 *retirement age*, the nonmember spouse shall receive a
17 retirement allowance that shall consist of an annual
18 allowance payable in monthly installments ~~upon~~
19 ~~retirement at normal retirement age or over~~, equal to 2
20 percent of final compensation for each year of credited
21 service. If the nonmember spouse's retirement is
22 effective at less than normal retirement age and between
23 early retirement age and normal retirement age, the
24 retirement allowance shall be reduced by one-half of 1
25 percent for each full month, or fraction of a month, that
26 will elapse until the nonmember spouse would have
27 reached normal retirement age.

28 (1) In computing the retirement allowance of the
29 nonmember spouse, the age of the nonmember spouse on
30 the last day of the month in which the retirement
31 allowance begins to accrue shall be used.

32 (2) Final compensation, for purposes of calculating the
33 service retirement allowance of the nonmember spouse
34 under this subdivision, shall be calculated according to
35 the definition of final compensation in Section 22133 or
36 Section 22135, whichever is applicable, and shall be based
37 on the earnable compensation of the member up to the
38 date the parties separated, as established in the judgment
39 or court order pursuant to Section 22652.

1 The nonmember spouse shall not be entitled to use any
2 other calculation of final compensation.

3 (d) If the member is or was receiving a disability
4 allowance with an effective date before or on the date the
5 parties separated as established in the judgment or court
6 order pursuant to Section 22652, or at any time applies for
7 and receives a disability allowance with an effective date
8 that is before or coincides with the date the parties
9 separated as established in the judgment or court order
10 pursuant to Section 22652, the nonmember spouse shall
11 not be eligible to retire until after the disability allowance
12 of the member terminates.

13 If the member who is or was receiving a disability
14 allowance returns to ~~a position requiring membership~~
15 *employment to perform creditable service subject to*
16 *coverage by the plan* or has his or her allowance
17 terminated under Section 24015, the nonmember spouse
18 may not be paid a retirement allowance until at least six
19 months after termination of the disability allowance and
20 the return of the member to ~~a position requiring~~
21 ~~membership~~ *employment to perform creditable service*
22 *subject to coverage by the plan*, or the termination of the
23 disability allowance and the employment or
24 self-employment of the member *in any capacity,*
25 *notwithstanding Section 22132.* If at the end of the
26 six-month period, the member has not had a recurrence
27 of the original disability or has not had his or her earnings
28 fall below the amounts described in Section 24015, the
29 nonmember spouse may be paid a retirement allowance
30 if all other eligibility requirements are met.

31 (1) The retirement allowance of the nonmember
32 spouse under this subdivision shall be calculated as
33 follows: the disability allowance the member was
34 receiving, exclusive of the benefits for dependent
35 children, shall be divided between the share of the
36 member and the share of the nonmember spouse. The
37 share of the nonmember spouse shall be the amount
38 obtained by multiplying the disability allowance,
39 exclusive of the benefits for dependent children, by the
40 years of service credited to the separate account of the

1 nonmember spouse, including service projected to the
2 date of separation, and dividing by the projected service
3 of the member. The nonmember spouse's retirement
4 allowance shall be the lesser of the share of the
5 nonmember spouse under this subdivision or the
6 retirement allowance under subdivision (c).

7 (2) The share of the member shall be the total
8 disability allowance reduced by the share of the
9 nonmember spouse. The share of the member shall be
10 considered the disability allowance of the member for
11 purposes of Section 24213.

12 (e) The nonmember spouse who receives a
13 retirement allowance is not a ~~retirant~~ *retired member*.
14 However, the allowance of the nonmember spouse shall
15 be increased by application of the improvement factor
16 and shall be eligible for the application of supplemental
17 increases and other benefit maintenance provisions,
18 including, but not limited to, Sections 24411, 24412, and
19 24415 based on the same criteria used for the application
20 of these benefit maintenance increases to the service
21 retirement allowances of members.

22 *SEC. 129. Section 22665 of the Education Code is*
23 *amended to read:*

24 22665. The system shall include the service credit
25 awarded to a nonmember spouse in the judgment or
26 court order to determine the eligibility of a member for
27 a ~~service retirement, disability~~ retirement; or disability
28 allowance. That portion of awarded service credit based
29 on previously refunded contributions or on permissive
30 service credit may not be used by the member for
31 eligibility requirements until the member has
32 redeposited or purchased his or her portion of the service
33 credit. The *member's* service retirement ~~or disability~~
34 allowance ~~of a member~~ shall be calculated based on the
35 service credit in the *member's* account ~~of the member~~ on
36 the effective date of ~~disability or service~~ retirement.

37 *SEC. 130. Section 22700 of the Education Code is*
38 *amended to read:*

39 22700. This chapter governs the computation of
40 service to be credited to a member for the purpose of

determining ~~whether the member qualifies for~~
~~retirement~~ *eligibility for benefits under the plan*, the
 amount of contributions required of the member, and the
 amount of benefits paid to a retired member.

~~SEC. 79.—~~

SEC. 131. Section 22703 of the Education Code is
 amended to read:

22703. (a) Service shall be computed by school years
 and not by calendar years, portions of years served being
 accumulated and counted as service. All of the creditable
 service performed during any one school year subject to
 coverage by the plan shall not count for more than one
 year.

(b) In lieu of any other benefits provided by this part,
 any member who performed service prior to July 1, 1956,
 shall receive retirement benefits for that service at least
 equal to the benefits which he or she would have received
 for that service under the provisions of this part as they
 existed on June 30, 1956. The provisions of this paragraph
 do not apply to service which is credited in the San
 Francisco City and County Employees Retirement
 System.

~~SEC. 80.—~~

SEC. 132. Section 22705 of the Education Code is
 amended to read:

22705. No ~~time~~ *service* shall be included for which a
 member is entitled to receive a ~~pension~~ *retirement*
benefit in a lump sum or installment payments, for other
 than ~~naval~~ *or* military service, from any ~~source~~ *public*
retirement system other than this system, or under the
 American Gratuity Act No. 4151 relating to service in the
 Philippine Islands under which 15 or more years of
 creditable service has accrued, or a local ~~retirement~~
 system. If a retired member becomes entitled to such a
~~pension~~ *retirement benefit*, his or her retirement
 allowance shall be reduced thereafter to exclude the ~~time~~
service upon which the ~~pension~~ *retirement benefit* is
 based, without other change in *his* or her retirement
 status.

~~SEC. 81.—~~

1 SEC. 133. Section 22706 of the Education Code is
2 amended to read:

3 22706. No ~~time~~ *service* shall be included during which
4 a person is receiving a retirement or disability allowance
5 from this plan.

6 ~~SEC. 82.—~~

7 SEC. 133.5. Section 22709 of the Education Code is
8 amended to read:

9 22709. A member shall receive credit for time during
10 which ~~he or she~~ *the member* is prevented from
11 performing creditable service subject to coverage by this
12 plan, by act of God, or by reason of the closing of a school
13 by any duly authorized officer or body. If by reason of a
14 member's Japanese ancestry, ~~he or she~~ *the member* was
15 required by the Wartime Civil Control Administration to
16 leave his or her teaching position in California and
17 returned prior to July 1, 1972, to ~~a position requiring or~~
18 ~~permitting membership, he or she shall be given by the~~
19 ~~system four years of service credit.~~ *service subject to*
20 *coverage by the plan, the system shall give the member*
21 *four years of service credit in the plan.*

22 ~~SEC. 83.—~~

23 SEC. 134. Section 22711 of the Education Code is
24 amended to read:

25 22711. (a) A member shall receive full credit for time
26 during which the member serves as an elected officer of
27 an employee organization while on a compensated leave
28 of absence pursuant to Section 44987 or 87768.5, if all of
29 the following conditions are met:

30 (1) The member was employed and performed
31 creditable service subject to coverage by the plan in the
32 month prior to commencement of the leave of absence.

33 (2) The member contributes to the Teachers'
34 Retirement Fund the amount that would have been
35 contributed had the member been employed full time.

36 (3) The member's employer contributes to the
37 Teachers' Retirement Fund at a rate specified by the
38 board an amount based upon the compensation that
39 would have been paid to the member had the member
40 been employed full time.

1 ~~(b) The maximum amount of credit earned by a~~
2 ~~member for service as an elected officer of an employee~~
3 ~~organization shall not exceed 12 calendar years.~~

4 (b) The maximum amount of time for which a
5 member can receive full credit pursuant to this section
6 shall not exceed 12 calendar years.

7 ~~SEC. 84.—~~

8 SEC. 135. Section 22712.5 is added to the Education
9 Code, to read:

10 22712.5. All members employed by a school district,
11 community college district, or superintendent of schools
12 who received credit during the school year ending June
13 30, 1996, for service performed as a community service
14 teacher or in a classified position that does not qualify for
15 membership in the Public Employees' Retirement
16 System, shall continue to receive credit for that service
17 performed after June 30, 1996, provided the member
18 remains continuously employed to perform that service.

19 SEC. 136. Section 22713 of the Education Code is
20 amended to read:

21 22713. (a) Notwithstanding any other provision of
22 this chapter, the governing board of a school district or a
23 community college district or a county superintendent of
24 schools may establish regulations that allow an employee
25 who is a member to reduce his or her workload from full
26 time to part time, and receive the service credit the
27 member would have received if the member ~~was~~ had
28 been employed on a full-time basis and have his or her
29 retirement allowance, as well as other benefits that the
30 member is entitled to under this part, based upon the
31 ~~salary~~ compensation that the member would have
32 received if the member had been employed on a full-time
33 basis.

34 (b) The regulations shall include, but shall not be
35 limited to, the following:

36 (1) The option to reduce the member's workload shall
37 be exercised at the request of the member and can be
38 revoked only with the mutual consent of the employer
39 and the member.

(2) The member shall have been employed full time to perform creditable service subject to coverage by the plan for at least 10 years of which the immediately preceding five years were full time employment.

~~(3) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring membership in this system for a total of at least five years without a break in service. For purposes of this plan for at least 10 years including five years immediately preceding the reduction in workload.~~

(3) The member shall not have had a break in service during the five years immediately preceding the reduction in workload. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. ~~Time~~ However, time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(4) The member shall have reached the age of 55 years prior to the reduction in workload.

(5) The *period of the* reduced workload shall not exceed 10 years.

(6) The reduced workload shall be ~~equivalent~~ *equal* to one-half of the full-time equivalent required by the member's contract of employment during his or her final year of full-time employment.

(7) The member shall be paid a ~~salary~~ *compensation* that is the pro rata share of the ~~salary~~ *compensation* the member would be earning had he or she have earned had the member not opted to reduce his or her workload.

(c) Prior to the reduction of a member's workload under this section, the ~~personnel of the employer responsible for the administration of this reduced workload program, in conjunction with the employer in conjunction with the~~ administrative staff of the State Teachers' Retirement System and the Public Employees' Retirement System, shall verify the member's eligibility for the reduced workload program.

(d) The member shall contribute to the Teachers' Retirement Fund the amount that would have been contributed had the member been employed full time.

(e) The employer shall contribute to the Teachers' Retirement Fund at a rate specified by the board an amount based upon the compensation that would have been paid to the member had the member been employed full time.

(f) The employer shall maintain the necessary records to separately identify each member receiving credit pursuant to this section.

~~SEC. 85.—~~

SEC. 137. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action taken prior to January 1, 1999, determines pursuant to Section 44929 or 87488 that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging ~~the retirement of~~ certificated employees or academic employees *to retire for service* and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees or academic employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to teach in, or faculty who are qualified to teach in, teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited to a member if all of the following conditions exist:

(1) The member is credited with five or more years of service and retires during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period. For the 1993–94 fiscal year, the retirement period shall begin on the date of the formal action and shall end on June 30, 1994.

1 (2) The employer ~~transmits~~ *transfers* to the
2 retirement fund an amount determined by the Teachers'
3 Retirement Board ~~that equals to equal~~ the actuarial
4 equivalent of the difference between the allowance the
5 member receives after receipt of service credit under this
6 section and the amount the member would have received
7 without the service credit and an amount determined by
8 the Teachers' Retirement Board ~~that equals to equal~~ the
9 actuarial equivalent of the difference between the
10 purchasing power protection supplemental payment the
11 member receives after receipt of additional service credit
12 pursuant to this section and the amount the member
13 would have received without the additional service
14 credit. The payment for purchasing power shall be
15 deposited in the Supplemental Benefit Maintenance
16 Account established by Section 22400 and shall be subject
17 to Sections 24414 and 24415. The transfer to the
18 retirement fund shall be made in a manner, and time
19 period ~~that shall~~ not to exceed four years, that ~~are~~ is
20 acceptable to the Teachers' Retirement Board. The
21 employer shall ~~make the payment with respect to~~
22 *transfer the required amount for* all eligible employees
23 who ~~retired~~ *retire* pursuant to this section.

24 (3) The employer transmits to the retirement fund the
25 administrative costs incurred by the system in
26 implementing this section, as determined by the
27 Teachers' Retirement Board.

28 (4) The employer has considered the availability of
29 teachers or academic employees to fill the positions that
30 would be vacated pursuant to this section.

31 (b) (1) The school district shall demonstrate and
32 certify to the county superintendent that the formal
33 action taken would result in either: (A) a net savings to
34 the district; (B) a reduction of the number of certificated
35 employees as a result of declining enrollment, as
36 computed pursuant to Section 42238.5; or (C) the
37 retention of certificated employees who are credentialed
38 to teach in teacher shortage disciplines.

39 (2) The county superintendent shall certify to the
40 Teachers' Retirement Board that a result specified in

1 paragraph (1) can be demonstrated. The certification
2 shall include, but not be limited to, the information
3 specified in subdivision (b) of Section 14502. A district
4 that qualifies under clause (B) of paragraph (1) shall also
5 certify that it qualifies as a declining enrollment district
6 as computed pursuant to Section 42238.5.

7 (3) The school district shall reimburse the county
8 superintendent for all the costs of the county
9 superintendent that result from the certification.

10 (c) (1) The county office of education shall
11 demonstrate and certify to the Superintendent of Public
12 Instruction that the formal action taken would result in
13 either: (A) a net savings to the county office of education;
14 (B) a reduction of the number of certificated employees
15 as a result of declining enrollment; or (C) the retention
16 of certificated employees who are credentialed to teach
17 in teacher shortage disciplines.

18 (2) The Superintendent of Public Instruction shall
19 certify to the Teachers' Retirement Board that a result
20 specified in paragraph (1) can be demonstrated. The
21 certification shall include, but not be limited to, the
22 information specified in subdivision (b) of Section 14502.

23 (3) The Superintendent of Public Instruction may
24 request reimbursement from the county office of
25 education for all administrative costs that result from the
26 certification.

27 (d) (1) The community college district shall
28 demonstrate and certify to the chancellor's office that the
29 formal action taken would result in either: (A) a net
30 savings to the district; (B) a reduction in the number of
31 academic employees as a result of declining enrollment,
32 as computed pursuant to subdivision (c) of Section 84701;
33 or (C) the retention of faculty who are qualified to teach
34 in teacher shortage disciplines.

35 (2) The chancellor shall certify to the Teachers'
36 Retirement Board that a result specified in paragraph (1)
37 can be demonstrated. The certification shall include, but
38 not be limited to, the information specified in subdivision
39 (c) of Section 84040.5. A community college district that
40 qualifies under clause (B) of paragraph (1) of subdivision

(b) of this section shall also certify that it qualifies as a declining enrollment district as computed pursuant to subdivision (c) of Section 84701.

(3) The chancellor may request reimbursement from the community college for all administrative costs that result from the certification.

(e) The *opportunity to be granted* service credit ~~made available~~ pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member who retires with service credit granted under this section and who subsequently reinstates into the system, shall forfeit the service credit granted under this section.

(h) This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the formal action, or if the member is not otherwise eligible to retire for service.

SEC. 138. Section 22715 of the Education Code is amended to read:

22715. (a) Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interest of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to members, who are state employees, if the following conditions exist:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order specifying that period.

1 (2) The appointing power, as defined in Section 18524
2 of the Government Code, ~~transmits~~ *transfers* to the
3 retirement fund an amount determined by the board ~~that~~
4 ~~is to equal to~~ the actuarial equivalent of the difference
5 between the allowance the member receives after the
6 receipt of service credit under this section and the
7 amount the member would have received without the
8 service credit. The transfer to the retirement fund shall
9 be made in a manner and time period acceptable to the
10 employer and the board.

11 (3) The appointing power determines that it is
12 electing to exercise the provisions of this section,
13 pursuant to the Governor's order, and certifies to the
14 Department of Finance and to the Legislative Analyst, as
15 to the specific economies that ~~will~~ *would* be realized ~~were~~
16 *if* the additional service credit ~~towards~~ *toward* retirement
17 *were* granted.

18 (b) As used in this section, "member" means a state
19 employee who is employed in a job classification,
20 department, or other organizational unit designated by
21 the appointing power, as defined in Section 18524 of the
22 Government Code.

23 (c) The amount of service credit shall be two years
24 regardless of credited service, but shall not exceed the
25 number of years intervening between the date of the
26 member's retirement and the date the member would be
27 required to be retired because of age. The appointing
28 power shall make the payment with respect to all eligible
29 employees who ~~retired~~ *retire* pursuant to this section.

30 (d) Any member who qualifies under this section,
31 upon subsequent reinstatement, shall forfeit the service
32 credit ~~acquired~~ *granted* under this section.

33 (e) This section shall not be applicable to any member
34 otherwise eligible if that member receives any
35 unemployment insurance payments arising out of
36 employment with an employer subject to this part during
37 a period extending one year beyond the date of issuance
38 of the executive order or if the member is not eligible to
39 retire without the additional credit available under this
40 section.

1 (f) The benefit provided by this section shall not be
2 applicable to the employees of any appointing power
3 until the Director of Finance approves the transmittal of
4 funds by that appointing power or the Board of Regents
5 or the Board of Trustees to the retirement fund pursuant
6 to paragraph (2) of subdivision (a).

7 (g) The Director of Finance shall approve the
8 transmittal of funds by the appointing power not sooner
9 than 30 days after notification in writing of the necessity
10 therefor to the chairperson of the committee in each
11 house that considers appropriations and the chairperson
12 of the Joint Legislative Budget Committee, or not sooner
13 than any lesser time that the chairperson of the
14 committee, or his or her designee, may in each instance
15 determine. If there is any written communication
16 between the Director of Finance and the Legislative
17 Analyst, a copy of the communication shall be
18 transmitted to the chairperson of each appropriate policy
19 committee.

20 *SEC. 139. Section 22716 of the Education Code is*
21 *amended to read:*

22 22716. Notwithstanding any other provision of law, a
23 member upon any subsequent service under unpaid
24 contract or any other unpaid basis with the trustees, shall
25 not be required to forfeit the service ~~credits~~~~acquired~~
26 *credit granted* under former Section 22732, as it read on
27 June 29, 1993.

28 *SEC. 140. Section 22717 of the Education Code is*
29 *amended to read:*

30 22717. (a) A member shall be ~~ereditd~~ *granted*
31 *credit* at service retirement for each day of accumulated
32 and unused leave of absence for illness or injury for which
33 full salary is ~~allowed that the member was entitled to on~~
34 ~~the final day the member performed service for the~~
35 ~~school district or other employing agency by which the~~
36 ~~member was last allowed to which the member was~~
37 *entitled on the member's final day of employment with*
38 *the employer by which the member was last employed to*
39 *perform creditable service subject to coverage by the*
40 *plan.*

1 (b) The amount of service credit to be granted shall be
 2 determined by dividing the number of days of
 3 accumulated and unused leave of absence for illness or
 4 injury by the number of days of service ~~required by the~~
 5 ~~member's contract of employment during the final year~~
 6 ~~of creditable service subject to coverage by the plan~~ *the*
 7 *employer requires the member's class of employees to*
 8 *perform in a school year during the member's final year*
 9 *of creditable service subject to coverage by the plan,*
 10 *which shall not be less than the minimum standard*
 11 *specified in Section 22138.5.* In no event shall the divisor
 12 be less than 175.

13 (c) When the member has made application for
 14 service retirement under this part, the ~~school district or~~
 15 ~~other employing agency~~ *employer* shall certify to the
 16 board, within 30 days following the effective date of the
 17 member's service retirement, the number of days of
 18 accumulated and unused leave of absence for illness or
 19 injury that the member was entitled to on the final day
 20 of employment. The board may assess a penalty on
 21 delinquent reports.

22 (d) This section shall not be applicable to any person
 23 who became a member on or after July 1, 1980, whether
 24 or not the person was ever a member prior to that date.

25 ~~SEC. 86.—~~

26 *SEC. 141.* Section 22718 of the Education Code is
 27 amended to read:

28 22718. (a) The Teachers' Retirement Board shall
 29 establish rules and regulations for the purpose of billing
 30 school employers for service credit granted for sick leave,
 31 including, but not limited to, both of the following
 32 provisions:

33 (1) The billing shall be authorized only if the employer
 34 grants more than one day of sick leave per pay period of
 35 at least four weeks to members of the plan.

36 ~~(2) The employer shall be billed only for the present~~
 37 ~~value of sick leave greater than one day per pay period of~~
 38 ~~at least four weeks that is granted to members of the plan.~~

1 (2) *The employer shall be billed only for the present*
2 *value of sick leave days granted in excess of one day per*
3 *pay period of at least four weeks.*

4 (b) If a school employer fails to pay a bill charged
5 according to the rules and regulations established
6 pursuant to subdivision (a), the Teachers' Retirement
7 Board may request the Superintendent of Public
8 Instruction or the Chancellor of the California
9 Community Colleges, as appropriate, to reduce state
10 apportionments to the school employer by an amount
11 equal to the amount billed. The superintendent or
12 chancellor shall make the reduction, and if requested by
13 the board, direct the Controller to reduce the amount
14 transferred from the General Fund to Section A or
15 Section B, as appropriate, of the State School Fund by an
16 equal amount, which shall instead be transferred to the
17 Teachers' Retirement Fund.

18 ~~SEC. 87.—~~

19 *SEC. 142.* Section 22719 of the Education Code is
20 amended to read:

21 ~~22719. If a retired member returns to employment as~~
22 ~~an active member, the employing school district or other~~
23 ~~employing agency shall~~

24 *22719. If the allowance of a retired member is*
25 *terminated, the employer shall not restore sick leave days*
26 *for which service credit was given granted at retirement.*
27 ~~A retired member who returns to employment as an~~
28 ~~active member whose retirement allowance is~~
29 ~~terminated on or after July 1, 1980, shall not receive~~
30 ~~service credit at upon a subsequent retirement for the~~
31 ~~any unused sick leave accrued after he or she returns to~~
32 ~~active service. after the retirement allowance is~~
33 ~~terminated.~~

34 ~~SEC. 88.—~~

35 *SEC. 143.* Section 22720 of the Education Code is
36 amended to read:

37 ~~22720. The benefits—accorded service credited~~
38 ~~pursuant to Section 22717 shall not be used in the~~
39 ~~calculation determination of final compensation.~~

40 ~~SEC. 89.—~~

1 *SEC. 144. Section 22721 of the Education Code is*
2 *amended to read:*

3 22721. Except as provided in Section 22717, no service
4 credit ~~toward retirement~~ shall be granted for any
5 payment made for accumulated sick leave upon transfer
6 from one ~~district employer~~ to another, upon termination
7 of service, ~~upon death, or upon~~ retirement, ~~or upon~~
8 ~~death~~. No contributions shall be ~~taken~~ withheld from
9 ~~those any such~~ payments. Payments for accumulated sick
10 leave shall be paid to the member by separate warrant
11 and shall not be included in any payroll warrant paid
12 issued to the ~~teacher but shall be paid by separate warrant~~
13 ~~member~~. The payments shall not be included in the
14 ~~computation for the purposes of determining~~
15 ~~determination of~~ “final compensation.” No continued
16 leave of absence shall be granted a member solely for the
17 purpose of allowing the member to receive compensation
18 for accumulated sick leave for which the member could
19 otherwise have elected to receive payment.

20 *SEC. 145. Section 22800 of the Education Code is*
21 *amended to read:*

22 22800. (a) Claims for permissive and additional
23 service credit shall be corroborated by a statement from
24 the superintendent of schools or custodian of records of
25 the ~~employing agency or public school where~~ employer
26 ~~for which~~ the service was performed.

27 (b) Claims for creditable service performed outside
28 the United States or in federal schools within the United
29 States shall be corroborated by a statement from the
30 custodian of records.

31 (c) When the official records of the service have been
32 destroyed, the claim may be corroborated by one or more
33 affidavits of knowledge of the service, preferably by
34 persons who served with the member at the time the
35 service was performed.

36 *SEC. 146. Section 22801 of the Education Code is*
37 *amended to read:*

38 22801. (a) A member who elects to receive
39 additional service credit as provided in this chapter shall
40 pay, prior to retirement, all contributions with respect to

1 that service at the contribution rate for additional service
2 credit in effect at the time of election.

3 (b) If the member is ~~currently employed in a position~~
4 ~~requiring membership in this system to perform~~
5 *creditable service subject to coverage by the plan at the*
6 *time of the election*, the contributions shall be based upon
7 the compensation earnable in the current school year or
8 either of the two immediately preceding school years,
9 whichever is highest.

10 (c) If the member is not ~~currently employed in a~~
11 ~~position requiring membership in this system to perform~~
12 *creditable service subject to coverage by the plan at the*
13 *time of the election*, the contributions shall be based upon
14 the compensation earnable in the last school year of
15 credited service or either of the two immediately
16 preceding school years, whichever is highest. ~~Regular~~
17 ~~interest shall be charged on all contributions from the end~~
18 ~~of the school year on which the contributions were based~~
19 ~~to the date of payment.~~

20 (d) The employer may pay the amount required as
21 employer contributions for additional service credited
22 under paragraphs (2), (6), (7), (8), and (9) of subdivision
23 (a) of Section 22803.

24 (e) *Regular interest shall be charged on all*
25 *contributions from the end of the school year on which*
26 *the contributions were based to the date of payment.*

27 (f) Regular interest shall be charged on the monthly
28 unpaid balance if the member pays in installments.

29 *SEC. 147. Section 22802 of the Education Code is*
30 *amended to read:*

31 22802. (a) A member who was previously excluded
32 from membership in ~~this system~~ *the plan* may elect to
33 receive credit for:

34 ~~(a) Substitute service~~

35 (1) *Service as a substitute* excluded under Section
36 22602.

37 ~~(b) Part-time service~~

38 (2) *Service performed on a part-time basis* excluded
39 under Section 22601.5 or Section 22604.

40 ~~(c)~~

(3) Adult education service excluded under Section 22603, *as it read on December 31, 1995.*

~~(d)~~

(4) Service as a school nurse excluded under Section 22606, *as it read on December 31, 1995.*

~~(e)~~

(5) Service performed in a position prior to the date the position was made ~~eligible for membership in this system~~ *subject to coverage by the plan.*

~~(f)~~

(6) Service *subject to coverage by the plan* performed ~~in a position requiring membership in this system~~ while a member of another California public retirement system, provided the member has ceased to be a member of, and has ceased to be entitled to benefits from, the other retirement system. The member shall not receive credit for the service if the member may redeposit withdrawn contributions and subsequently be eligible for any benefits based upon the same service or based upon other full-time service performed during the same period, from another California public retirement system.

(b) A member who elects to receive credit for service performed while excluded from membership shall pay *the required contributions* for all such service.

SEC. 148. Section 22803 of the Education Code is amended to read:

22803. (a) A member may elect to receive credit for any of the following:

(1) Service performed in a teaching position in a publicly supported and administered university or college in this state.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

1 (4) Service performed in a certificated teaching
2 position in a federally supported and administered Indian
3 school in this state.

4 (5) Time served, not to exceed two years, in a
5 certificated teaching position in a job corps center
6 administered by the United States government in this
7 state if the member was employed ~~in a position requiring~~
8 ~~membership in this system~~ *to perform creditable service*
9 *subject to coverage by the plan* within one year prior to
10 entering the service and returned to ~~a position requiring~~
11 ~~membership in this system~~ *employment to perform*
12 *creditable service subject to coverage by the plan* within
13 six months following the date of termination of service in
14 the job corps.

15 (6) Time spent on a sabbatical leave after July 1, 1956.

16 (7) Time spent on an approved leave to participate in
17 any program under the federal Mutual Educational and
18 Cultural Exchange Program.

19 (8) Time spent on an approved maternity or paternity
20 leave of two years or less in duration, regardless of
21 whether or not the leave was taken before or after the
22 addition of this subdivision.

23 (9) Time spent on an approved leave, up to four
24 months in any 12-month period, for family care or
25 medical leave purposes, as defined by Section 12945.2 of
26 the Government Code, as it read on the date leave was
27 granted, excluding maternity and paternity leave.

28 (b) In no event shall the member receive credit for
29 service or time described in paragraphs (1) to (9),
30 inclusive, of subdivision (a) if the member has received
31 or is eligible to receive credit for the same service or time
32 in *the Cash Balance Plan under Part 14 (commencing*
33 *with Section 26000) or another retirement system.*

34 *SEC. 149. Section 22805 of the Education Code is*
35 *amended to read:*

36 22805. (a) A member may elect to receive credit for
37 time served in the active military service of the United
38 States or of this state, including active service in any
39 uniformed auxiliary to any branch of that military service
40 authorized as an auxiliary by the United States Congress

1 or the California State Legislature, or in the full-time paid
2 service of the American Red Cross prior to September
3 1957, if both of the following conditions exist:

4 (1) The time served was during war with any foreign
5 power or during other national emergency, or in time of
6 peace if the member was drafted for that service by the
7 United States government.

8 (2) The member was employed ~~in a position requiring~~
9 ~~membership in this system~~ *to perform creditable service*
10 *subject to coverage by the plan* within one year prior to
11 entering that service. Time included under this section
12 shall be considered as served in the state in which the
13 member was last employed before entering that service.

14 (b) Time during which the member is absent without
15 compensation for other cause, on leave, or otherwise,
16 shall not be included.

17 *SEC. 150. Section 22806 of the Education Code is*
18 *amended to read:*

19 22806. (a) A member who is a state employee ~~or a~~
20 ~~retirant~~ who retired on or after December 31, 1981, and
21 who was at retirement a state employee may elect to
22 receive credit, of not to exceed four years, for time served
23 of not less than one year, prior to entering this system, in
24 the armed forces of the United States or in the Merchant
25 Marine of the United States prior to January 1, 1950.
26 Service credit shall not be granted if that service
27 terminated with a discharge under dishonorable
28 conditions. The service credit to be accorded pursuant to
29 this section for that service shall be on the basis of one year
30 of credit for each five years of credited service, but shall
31 not exceed a total of four years of service credit regardless
32 of the number of years of either that service or
33 subsequent service. A member ~~or a retirant~~ electing to
34 receive a credit for that service shall have been credited
35 with at least 10 years of service on the date of election or
36 the date of retirement.

37 (b) An election by a member with respect to service
38 credit under this section may be made only while the
39 member is in state or university employment, and a
40 ~~retirant~~ *retired member* shall have retired immediately

1 following service as a member who was at retirement a
2 state employee. The retirement allowance of a ~~retirant~~
3 *member* who elects to receive service credit pursuant to
4 this section shall be increased only with respect to the
5 allowance payable on and after the date of election.

6 (c) A member ~~or retirant~~ who elects to become
7 subject to this section shall pay all reasonable
8 administrative costs and contributions, sufficient to cover
9 the total employer and employee cost plus interest of the
10 military service credit, at rates to be determined by the
11 board. The amount shall be contributed in lump sum or
12 by installments over the period and subject to those
13 minimum payments as may be prescribed by regulations
14 of the board. Payments for administrative costs shall be
15 credited to the current appropriation for support of the
16 board and available for expenditure by the board to fund
17 positions deemed necessary by the board to implement
18 this section.

19 (d) The board has no duty to locate or notify any
20 ~~retirant member~~ or to provide the name or address of any
21 ~~retirant member~~, agency, or entity for the purpose of
22 notifying those persons.

23 *SEC. 151. Section 22808 of the Education Code is*
24 *amended to read:*

25 22808. A member shall not be required to pay
26 contributions to receive credit for service under Section
27 22805 under any of the following conditions:

28 (a) The service was performed after September 15,
29 1940, and the member returned to ~~a position requiring~~
30 ~~membership in this system~~ *employment subject to*
31 *coverage by the plan* prior to March 19, 1948.

32 (b) The service was performed prior to January 1,
33 1950, and the member was continuously performing the
34 service prior to that date and returned to ~~a position~~
35 ~~requiring membership in this system~~ *employment*
36 *subject to coverage by the plan* within six months
37 following the termination of the service.

38 (c) The service was performed prior to September 14,
39 1978, and the member entered that service after
40 December 31, 1949, and returned to ~~a position requiring~~

1 ~~membership in this system~~ *employment subject to*
2 *coverage by the plan* within six months following the
3 termination of the service.

4 (d) The service was performed prior to January 1,
5 1992, and the member entered that service after August
6 1, 1990, and retired or returned to a ~~position requiring~~
7 ~~membership in this system~~ *employment subject to*
8 *coverage by the plan* and earned additional service credit
9 within six months following the termination of that
10 service or within six months after the completion of any
11 period of rehabilitation offered by the United States
12 government, excluding rehabilitation solely for
13 educational purposes. Notwithstanding Section 22250,
14 22251, or 22253, ~~the school districts, community college~~
15 ~~districts, or other agencies employing those members~~
16 *employers of members subject to this section* shall not be
17 required to make the contributions required by Chapter
18 16 (commencing with Section 22950).

19 *SEC. 152. Section 22809 of the Education Code is*
20 *amended to read:*

21 22809. A member may elect to receive credit for
22 teaching service performed within and outside of this
23 state in a war relocation center administered by the
24 Wartime Civil Control Administration if all of the
25 following conditions exist:

26 (a) By reason of the member's Japanese ancestry the
27 member was placed in a war relocation center prior to
28 ~~entering membership in this system~~ *becoming a member*
29 *of the plan.*

30 (b) The member ~~received~~ *earned* compensation for
31 service in a teaching capacity in the relocation center.

32 (c) The member possessed a valid California teaching
33 credential issued by the State Department of Education
34 or had a bachelor's degree in education from a California
35 postsecondary institution.

36 *SEC. 153. Section 22810 of the Education Code is*
37 *amended to read:*

38 22810. (a) Any member, who was a member of ~~this~~
39 ~~system~~ *the plan* on June 30, 1944, may elect to receive
40 credit for the following service performed prior to July 1,

1 1944, in other states, territories, or possessions of the
2 United States, or in Canada:

3 (1) Service in a teaching position that in this state
4 would ~~require membership in this system~~ *be subject to*
5 *coverage by the plan.*

6 (2) Service in a teaching position in a publicly
7 supported and administered university or college.

8 (3) Service in a teaching position with the Civilian
9 Conservation Corps or in an Indian school supported and
10 administered by the United States government.

11 (4) Service in a publicly supported residential school
12 for the deaf or the blind.

13 (b) In no event shall the member receive credit for
14 this service if the member has received or is eligible to
15 receive credit for the same service in another retirement
16 system.

17 *SEC. 154. Section 22900 of the Education Code is*
18 *amended to read:*

19 22900. Acceptance of employment ~~in a position~~
20 ~~requiring membership in the system~~ *to perform*
21 *creditable service subject to coverage by the plan* is
22 consent to have ~~deductions~~ *contributions* deducted from
23 ~~salary taken for the system compensation.~~

24 *SEC. 155. Section 22901 of the Education Code is*
25 *amended to read:*

26 22901. Each member of ~~this system~~ *the plan* shall
27 contribute to the retirement fund an amount equivalent
28 to 8 percent of the member's compensation.

29 *SEC. 156. Section 22903 of the Education Code is*
30 *amended to read:*

31 22903. Notwithstanding Sections 22901, 22956, and
32 23000, each school district, community college district,
33 county board of education, and county superintendent of
34 schools, may pick up, for the sole purpose of deferring
35 taxes, as authorized by Section 414(h)(2) of the Internal
36 Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)) and
37 Section 17501 of the Revenue and Taxation Code, all of
38 the employee's contributions towards retirement made
39 by members of the ~~State Teachers' Retirement System~~

1 *plan*, provided that the contributions are deducted from
2 the salary of the member.

3 *SEC. 157. Section 22904 of the Education Code is*
4 *amended to read:*

5 22904. Notwithstanding any other provision of law,
6 the state may pick up all or a portion of the ~~normal~~
7 contributions required to be paid by a state employee
8 who is a member of the ~~State Teachers' Retirement~~
9 ~~System~~ *plan*, provided that the contributions are
10 deducted from the salary of the member. The pick up of
11 member contributions shall be through a salary reduction
12 program pursuant to Section 414(h)(2) of the Internal
13 Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)).
14 These contributions shall be reported as employer-paid
15 member contributions, and shall be credited to member
16 accounts.

17 *SEC. 158. Section 22906 of the Education Code is*
18 *amended to read:*

19 22906. If at the time of retirement, disability, or death,
20 there are contributions remaining to the credit of the
21 member that were made with respect to time on the basis
22 of which ~~the member will not be entitled to receive a~~
23 ~~benefit will not be payable~~, the board shall refund ~~to~~ the
24 ~~member accumulated~~ contributions as it may allocate to
25 the time.

26 *SEC. 159. Section 22907 of the Education Code is*
27 *amended to read:*

28 22907. Accumulated *retirement* contributions
29 credited to the account of a member whose date of birth
30 is changed in the records of the system after December
31 31, 1979, shall be adjusted to the proper amount based on
32 the correct birth date by either of the following methods:

33 (a) A refund of the excess contributions plus credited
34 interest from the end of the school year in which
35 contributions were overpaid because of the incorrect
36 birth date.

37 (b) Payment by the member of the contributions due
38 the ~~system~~ *plan* plus regular interest from the end of the
39 school year in which the contributions were underpaid to
40 the date of payment.

1 *SEC. 160. Section 22950 of the Education Code is*
2 *amended to read:*

3 ~~22950. The school districts and other agencies~~
4 ~~employing members of the State Teachers' Retirement~~
5 ~~System~~ Employers shall contribute monthly to the
6 Teachers' Retirement Fund 8 percent of the total of the
7 salaries upon which members' contributions are based.

8 *SEC. 161. Section 22951 of the Education Code is*
9 *amended to read:*

10 22951. In addition to any other contributions required
11 by this part, ~~the school districts and other agencies~~
12 ~~employing members of the State Teachers' Retirement~~
13 ~~System~~ employers shall contribute monthly to the
14 Teachers' Retirement Fund 0.25 percent of the total of
15 the salaries upon which members' contributions are
16 based.

17 *SEC. 162. Section 22952 of the Education Code is*
18 *amended to read:*

19 22952. (a) Effective January 1, 1980, ~~the school~~
20 ~~districts and other employing agencies in the state,~~ in
21 addition to all other contributions required by this part,
22 on account of liability for benefits pursuant to Section
23 24407, employers shall contribute monthly to the
24 Teachers' Retirement Fund 0.307 percent of the total of
25 the salaries upon which members' contributions are
26 based.

27 (b) The Controller shall adjust the contributions
28 required by this section within 10 days of notification by
29 the board of the actual creditable earnings on which the
30 contributions are based. A copy of the notification shall be
31 transmitted to the Legislature, the Director of Finance,
32 the Office of the Legislative Analyst, and the Commission
33 on State Mandates. The payroll data shall be subject to
34 audit by the Controller pursuant to Section 17558.5 of the
35 Government Code.

36 *SEC. 163. Section 22953 of the Education Code is*
37 *amended to read:*

38 22953. (a) Effective January 1, 1981, ~~the school~~
39 ~~districts and other employing agencies in the state,~~ in
40 addition to all other contributions required by this

1 chapter, on account of liability for benefits pursuant to
2 Section 24408, *employers* shall contribute monthly to the
3 Teachers' Retirement Fund 0.108 percent of the total of
4 the salaries upon which members' contributions are
5 based.

6 (b) The Controller shall adjust the contributions
7 required by this section within 10 days of notification by
8 the board of the actual creditable earnings on which the
9 contributions are based. A copy of the notification shall be
10 transmitted to the Legislature, the Director of Finance,
11 the Office of the Legislative Analyst, and the Commission
12 on State Mandates. The payroll data shall be subject to
13 audit by the Controller pursuant to Section 17558.5 of the
14 Government Code.

15 (c) This section shall remain in effect only until
16 January 1, 1997, and as of that date is repealed, unless a
17 later enacted statute, which is enacted before January 1,
18 1997, deletes or extends that date.

19 *SEC. 164. Section 22956 of the Education Code is*
20 *amended to read:*

21 22956. Employer and state contributions made to the
22 ~~system plan~~ are to finance the employer obligation for all
23 of the members of the ~~system plan~~ and, therefore, shall
24 not be credited to the individual accounts of the members
25 of the ~~system plan~~. These contributions shall be held in
26 the reserves of the ~~system plan~~ to finance the employers'
27 share of the cost of all benefits payable ~~by the system~~
28 *under the plan*. Under no circumstances shall employer
29 contributions be allocated or awarded to individual
30 members, ~~retirants~~, their spouses, or beneficiaries.

31 *SEC. 165. Section 23000 of the Education Code is*
32 *amended to read:*

33 ~~23000. The governing board of each school district,~~
34 ~~the county superintendent of schools, the county auditor,~~
35 ~~and any other employing department or agency~~ *Each*
36 *employer* shall deduct from the salary of ~~employee~~
37 ~~members of this system~~ *the plan employed by the*
38 *employer* the ~~member~~ contributions required by this
39 part and shall ~~pay to the system~~ *remit to the plan* those

1 contributions plus the employer contributions required
2 by this part and Section 44987.

3 *SEC. 166. Section 23001 of the Education Code is*
4 *amended to read:*

5 23001. ~~The~~ Each county superintendent shall draw his
6 or her requisitions for contributions required by Sections
7 22901 and 22950 in favor of the State Teachers'
8 Retirement System, and the requisitions, when allowed
9 and signed by the county auditor, shall constitute a
10 warrant against the county treasury. The county
11 superintendent thereupon shall forward the warrants to
12 the board in Sacramento. The amounts received shall be
13 deposited immediately in the State Treasury to the
14 Teachers' Retirement Fund.

15 *SEC. 167. Section 23004 of the Education Code is*
16 *amended to read:*

17 23004. The county superintendent of schools or
18 employing agency other than a school district or a county
19 or community college district shall make a report
20 monthly to the system containing such information as the
21 board may require in the administration of the ~~system~~
22 *plan.*

23 *SEC. 168. Section 23004.5 of the Education Code is*
24 *amended to read:*

25 23004.5. (a) In order for an employer to manage its
26 budget during a time of fiscal emergency and, during that
27 time, to preserve benefits for employees who are
28 employed ~~in positions subject to membership in this~~
29 ~~system to perform creditable service subject to coverage~~
30 *by the plan* and whose salaries, as defined in Section
31 22114, have been reduced because of the fiscal
32 emergency, the employer may report to the system the
33 earnable and earned salaries that would have been
34 reported to the board had the fiscal emergency not
35 occurred, provided that the employer complies with the
36 specific reporting requirements in this section or as
37 otherwise required by the board.

38 (b) This section shall not apply to any school district,
39 community college district, or county office of education
40 until the appropriate governing body adopts a resolution,

1 in a form provided by the board, to elect to be covered
2 by this section. The resolution shall be filed with, and
3 approved by, the board prior to the submission of the
4 reports required by this section. The resolution shall
5 specify the percentage reduction in earnable salaries,
6 identify the bargaining unit, or the ~~group or~~ class of
7 ~~unrepresented~~ ~~employees~~ *employees that is*
8 *nonrepresented*, or both, to be covered by this section, as
9 defined, and specify the period of time during which the
10 resolution is to be in effect.

11 (c) An employer may resolve to be covered by this
12 section for all employees of a bargaining unit who are
13 employed ~~in positions subject to membership in this~~
14 ~~system to perform creditable service subject to coverage~~
15 *by the plan* and have had their salaries uniformly reduced
16 because of a fiscal emergency. If the employer adopts a
17 resolution to be covered by this section for all employees
18 in a bargaining unit, the employer may also adopt a
19 resolution to be covered by this section for any ~~group or~~
20 class of *employees that is* nonrepresented ~~employees and~~
21 who are employed ~~in positions subject to membership in~~
22 ~~this system to perform creditable service subject to~~
23 *coverage by the plan* and have had their salaries
24 uniformly reduced because of a fiscal emergency. A
25 separate resolution shall be adopted for each bargaining
26 unit and ~~group or~~ class of *employees that is*
27 nonrepresented ~~employees~~ whose earnable and earned
28 salaries will be reported under this section.

29 (d) The employer shall transmit to the retirement
30 fund the administrative costs incurred by the system in
31 implementing this section, as determined by the
32 Teachers' Retirement Board.

33 (e) If the board determines that any conditions or
34 requirements of a submitted resolution have not been
35 fulfilled, the resolution shall immediately become
36 inoperative. In that case, a new resolution may be
37 adopted and submitted pursuant to this section.

38 (f) The earnable salaries prior to the salary reduction
39 and the earned salaries based on the earnable salaries

1 prior to the salary reduction shall be uniformly reported
2 for all employees covered by a resolution.

3 (g) Member and employer contributions shall be
4 reported and remitted to the system based on salaries
5 reported as earned under this section and not on actual
6 earned salaries after reduction.

7 (h) Employer reports shall be submitted in a manner
8 prescribed by the system to reflect identification of each
9 individual whose earned salaries are reported under this
10 section.

11 (i) An employer that elects to be covered by this
12 section shall maintain and provide to the system, as
13 requested, copies of payroll records, contracts, and other
14 related documentation regarding both the reduced and
15 reported earnable and earned salaries on all individuals
16 who are reported under this section. The system may
17 perform periodic audits of each employer that elects to be
18 covered by this section.

19 (j) The reported earnable and earned salaries of an
20 employee who has taken a demotion in lieu of layoff, or
21 has transferred to a part-time position, or has been subject
22 to any other personnel action for which a reduction in
23 salary occurs for reasons other than the fiscal emergency
24 shall be based on the salary of the new position, not on the
25 higher salary of the previous position.

26 (k) As used in this section, ~~“group or class”~~ “class of
27 ~~nonrepresented—employees”~~ *employees that is not*
28 *represented”* means a number of employees considered
29 ~~together as a group~~ because they share job similarities,
30 work location, or other logical work-related grouping.
31 Under no circumstances shall one employee be
32 considered a group or class *for purposes of this section*.

33 (l) It is the intent of the Legislature that this section
34 shall not be used for the purpose of inflating the
35 compensation of any employee who is employed ~~in a~~
36 ~~position subject to membership in this system to perform~~
37 *creditable service subject to coverage by the plan*, nor to
38 artificially provide a salary increase that is not actually
39 paid, nor to engage in any other form of pension abuse.

(m) This section shall remain in effect only until July 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1996, deletes or extends that date.

SEC. 169. Section 23008 of the Education Code is amended to read:

23008. (a) If more or less than the required contributions specified in this part and Section 44987 are paid to the ~~system~~ *plan* based on any salary payment to a member, proper adjustments shall be made by the county superintendent or other employing agency on a monthly report within 60 days of discovery or of notification by the system and any refunds shall be made to the member within the same time period by the employing agency.

(b) The board may assess penalties for late or improper adjustments. These penalties shall be no more than the regular interest as defined in Section 22162. The penalty so assessed shall be deemed interest earned in the year in which it was received.

(c) If a required report contains erroneous information and the system, acting in good faith, disburses funds *from the plan* based on that information, the county superintendent or other employing agency who submitted the report shall reimburse the ~~system~~ *plan* in full for the amount of the *erroneous* disbursement. Reimbursement shall be made immediately upon notification by the system.

~~SEC. 90.~~

SEC. 170. Section 23009 of the Education Code is amended to read:

23009. The board, if in the interest of the ~~system~~ *plan*, may, in connection with adjustments to the required contributions referred to in Section 23008, receive or make payments directly from or to the member or beneficiary with interest.

SEC. 171. Section 23101 of the Education Code is amended to read:

23101. When a member's *accumulated retirement* contributions are ~~returned to him or her~~ *refunded*, as

1 provided in Section 23100, all rights to benefits pertaining
2 to the service ~~credits~~ *credit* represented by those
3 contributions are forfeited. Those rights and benefits,
4 based upon service performed prior to refund, shall not
5 be restored until the member has redeposited the total of
6 the refunded *accumulated retirement* contributions, and
7 paid the regular interest thereon as provided in Chapter
8 19 (commencing with Section 23200).

9 *SEC. 172. Section 23102 of the Education Code is*
10 *amended to read:*

11 23102. Prior to the system paying a refund of
12 *accumulated retirement* contributions, the employer ~~or~~
13 ~~superintendent of schools~~ shall certify that the member's
14 employment has been terminated.

15 *SEC. 173. Section 23103 of the Education Code is*
16 *amended to read:*

17 23103. Refunds to a member shall be made upon
18 request of the member, or may be made without a
19 request if it appears to the board that the member's
20 employment is permanently terminated and the
21 member does not have enough service under the ~~system~~
22 *plan* to qualify for receipt of a retirement benefit.

23 *SEC. 174. Section 23104 of the Education Code is*
24 *amended to read:*

25 23104. (a) Deposit in the United States mail of an
26 initial warrant drawn as directed by the member as a
27 refund of contributions upon termination of
28 employment, and addressed to the address directed by
29 the member, constitutes a return of the member's
30 *accumulated retirement* contributions.

31 (b) If the member has elected on a form provided by
32 the system to transfer all or a specified portion of the
33 *accumulated retirement* contributions that are eligible
34 for direct trustee-to-trustee transfer to the trustee of a
35 qualified plan under Section 402 of the Internal Revenue
36 Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United
37 States mail of a notice that the requested transfer has
38 been made constitutes a return of the member's
39 *accumulated retirement* contributions.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's office *in Sacramento* within 30 days from the mailing date, the refund shall be canceled and the person shall be restored ~~to membership~~ *as a member of the plan* with all the rights and privileges restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's office *in Sacramento* within 30 days from the mailing date, the refund shall be canceled and the person shall be restored ~~to membership~~ *as a member of the plan* with all the rights and privileges restored.

SEC. 175. Section 23106 of the Education Code is amended to read:

23106. If a member ceases to be entitled to credit for service in ~~this system~~ *the plan* because ~~he or she~~ *the member* has become entitled to credit for that service in another retirement system supported wholly or in part by funds of the United States government, or any state government or political subdivision thereof, ~~he or she~~ *the member* is entitled to a refund of the accumulated retirement contributions made during the period for which he or she is entitled to credit in the other retirement system.

SEC. 176. Section 23107 of the Education Code is amended to read:

23107. Any member without terminating membership and upon making application on forms provided by the system shall be paid a refund of the accumulated annuity deposit ~~contribution~~ *contributions*.

SEC. 177. Section 23200 of the Education Code is amended to read:

23200. (a) If a person, whose accumulated retirement contributions have been refunded, again becomes a member of the ~~system~~ *he or she plan*, *the person* may elect to redeposit those contributions with

1 regular interest from the date of refund to the date of
2 payment. If the member elects to redeposit, the member
3 shall repay all accumulated *retirement* contributions that
4 were previously refunded. ~~The redeposit shall also~~
5 ~~include the amount deducted for administration expense~~
6 ~~under Section 23105.~~

7 (b) For time prior to July 1, 1944, regular interest shall
8 be at 2¹/₂ percent compounded annually.

9 *SEC. 178. Section 23201 of the Education Code is*
10 *amended to read:*

11 23201. Any person whose accumulated *retirement*
12 contributions were refunded ~~to him or her~~ and who has
13 received, or will qualify ~~for the receipt of~~ to receive, a
14 retirement allowance from the Public Employees'
15 Retirement System, the University of California
16 Retirement System, the Legislators' Retirement System,
17 or the San Francisco City and County Employees'
18 Retirement System may elect to redeposit the
19 accumulated *retirement* contributions that were
20 refunded, with regular interest from the date of refund
21 to the date of payment, without being employed ~~in a~~
22 ~~position requiring membership in this system to perform~~
23 *creditable service subject to coverage by the plan.* A
24 person who elects to redeposit pursuant to this section
25 shall not receive credit for service that might otherwise
26 be creditable under Section 22810.

27 *SEC. 179. Section 23202 of the Education Code is*
28 *amended to read:*

29 23202. (a) An election pursuant to Section 23200 to
30 redeposit *accumulated retirement* contributions may be
31 made by a member anytime prior to the *effective* date of
32 the *member's retirement of the member.*

33 (b) An election to redeposit refunded *accumulated*
34 *retirement* contributions shall be considered as an
35 election to repay all *accumulated retirement*
36 contributions previously refunded.

37 (c) If any payment due because of this election is not
38 received at the *system's office in Sacramento* ~~office of the~~
39 ~~system~~ within 120 days of its due date, the election shall

1 be canceled. Upon the cancellation of election any
2 payments made under the election shall be refunded.

3 (d) ~~In the event of cancellation of the election~~ *If the*
4 *election is cancelled,* the member may at any time prior
5 to the *effective* date of ~~the retirement of the member,~~
6 again elect to redeposit accumulated retirement
7 contributions previously withdrawn or refunded, in
8 accordance with Section 23200 and all the laws, rules, and
9 regulations pertaining thereto.

10 *SEC. 180. Section 23203 of the Education Code is*
11 *amended to read:*

12 23203. ~~Repayment~~ *Redeposit* of ~~withdrawn~~ *refunded*
13 accumulated retirement contributions shall be made in
14 one sum, or in not more than 60 monthly installments,
15 provided that no installment, except the final installment,
16 shall be less than twenty-five dollars (\$25).

17 *SEC. 181. Section 23300 of the Education Code is*
18 *amended to read:*

19 23300. (a) A member ~~or retiree~~ may at any time
20 designate a beneficiary, *or change the designation of a*
21 *beneficiary,* to receive benefits payable under this part,
22 except that no beneficiary designation may be made in
23 derogation of the community property share of any
24 nonmember spouse when any such benefit is derived, in
25 whole or in part, from community property contributions
26 or service credited during the period of marriage, unless
27 the nonmember spouse has previously obtained an
28 alternative order for distribution pursuant to Section 2610
29 of the Family Code. ~~Any change~~ *A designation* of
30 beneficiary shall be in writing on a form prescribed by the
31 system, executed by the member, witnessed by two
32 witnesses, neither of whom may be beneficiaries. To be
33 valid the instrument shall be received in the office of the
34 system in Sacramento before the member's death.

35 (b) Except as otherwise stated in this section, the
36 designation of beneficiary, other than an option
37 beneficiary, may be revoked ~~at the pleasure of the person~~
38 *by the member* making the ~~nomination~~ *designation,* and
39 a different beneficiary designated in the same manner as
40 provided in this section.

1 *SEC. 182. Section 23302 of the Education Code is*
2 *amended to read:*

3 23302. Payment to a beneficiary designated in the
4 form on file in the system at the date of death by a warrant
5 drawn prior to any claim under community property
6 rights shall constitute full discharge of any and all liability
7 of the board ~~and~~, system, *and plan* by reason of the
8 member's death.

9 *SEC. 183. Section 23303 of the Education Code is*
10 *amended to read:*

11 23303. (a) ~~The board, if~~ *If* the whereabouts of the
12 ~~nominated~~ *designated* beneficiary cannot be
13 determined, or if the beneficiary is the estate of the
14 deceased person, *the board* may pay to the undertaker
15 who conducted the funeral, or to any person who, or any
16 organization that, has paid the undertaker from funds
17 owned by the person or organization, in its discretion all
18 or a portion of any amount payable under the ~~system~~
19 *plan*, but not to exceed the funeral expenses of the
20 deceased person, or the portion of the expenses paid by
21 the person or organization, as evidenced by the sworn
22 itemized statement of the undertaker, person, or
23 organization and by any other documents the board may
24 require.

25 (b) The payment shall be in full and complete
26 discharge and acquittance of the board ~~and~~, system, *and*
27 *plan* up to the amount paid.

28 *SEC. 184. Section 23304 of the Education Code is*
29 *amended to read:*

30 23304. If no beneficiary designation is in effect on the
31 date of death, any benefit payable shall be paid to the
32 estate of the member ~~or retiree~~. Payment pursuant to
33 the board's determination in good faith upon evidence
34 satisfactory to it of the existence, identity or other facts
35 relating to entitlement of persons under this section shall
36 constitute a complete discharge and release of the system
37 *and plan* from liability for the benefit.

38 *SEC. 185. Section 23401 of the Education Code is*
39 *amended to read:*

1 23401. The board may require any ~~disability-retirant~~
2 *member* who retired *for disability*, prior to July 1, 1972,
3 and who has not attained 58 years of age, to undergo a
4 medical examination. If the examination, together with
5 other available information, shows to the satisfaction of
6 the board that ~~—he or she—~~ *the member* is no longer
7 disabled, ~~his or her~~ *the* retirement allowance shall ~~cease,~~
8 ~~and he or she shall be reinstated to membership in the~~
9 ~~system~~ *be terminated*. Should any ~~retirant~~ *member*
10 *retired for disability* refuse to submit to medical
11 examination, as provided in this section, ~~payments to the~~
12 ~~—retirant—~~ *under disability retirement allowance* shall be
13 ~~discontinued~~ *terminated* and all rights of the ~~retirant~~
14 *member* in the disability retirement allowance shall be
15 revoked.

16 *SEC. 186. Section 23700 of the Education Code is*
17 *amended to read:*

18 23700. (a) New survivor benefit and disability
19 retirement programs that are provided pursuant to
20 Chapter 23 (commencing with Section 23850) and
21 Chapter 26 (commencing with Section 24100), are
22 effective as of October 16, 1992. All members with an
23 effective date of membership on or after October 16,
24 1992, shall be covered by these survivor benefit and
25 disability retirement programs.

26 (b) The purpose of this chapter is to set forth the
27 criteria for granting certain members of the ~~system~~ *plan*,
28 as defined in Section 23702, the opportunity to elect to
29 either retain coverage under the current family
30 allowance and disability allowance programs pursuant to
31 Chapter 22 (commencing with Section 23800), and
32 Chapter 25 (commencing with Section 24001) or to be
33 covered under the survivor benefit and disability
34 retirement programs.

35 *SEC. 187. Section 23702 of the Education Code is*
36 *amended to read:*

37 23702. (a) All members of the ~~State—Teachers’~~
38 ~~Retirement System~~ *plan* on October 15, 1992, who are not
39 receiving a disability allowance or a retirement allowance
40 with an effective date prior to October 16, 1992, shall be

1 eligible to make an irrevocable election, pursuant to this
2 chapter, to retain coverage under either the disability
3 allowance and family allowance programs or to have
4 coverage under the disability retirement and survivor
5 benefits programs.

6 (b) The member's eligibility to participate in the
7 election shall be based on the member's status ~~with the~~
8 ~~system~~ *in the plan* on October 15, 1992, only, and not on
9 prior or subsequent events.

10 *SEC. 188. Section 23800 of the Education Code is*
11 *amended to read:*

12 23800. (a) This chapter governs the eligibility,
13 benefit provisions, allowance computations, and related
14 provisions for the death benefits payable upon the death
15 of eligible members. "Members," as used in this chapter,
16 means all members who were ~~disabilitants~~ *receiving a*
17 *disability allowance* on October 15, 1992, and all persons
18 who were members of the ~~system~~ *plan* on October 15,
19 1992, *who were not receiving an allowance and* who did
20 not elect, pursuant to Chapter 21.5 (commencing with
21 Section 23700), to be covered under Chapter ~~19.5~~ 23
22 (commencing with Section 23850).

23 (b) This chapter also contains three sections related to
24 survivor benefits payable on account of deaths that
25 occurred prior to July 1, 1972.

26 *SEC. 189. Section 23804 of the Education Code is*
27 *amended to read:*

28 23804. (a) A family allowance is payable upon the
29 death of ~~a member or a disabilitant~~ *an active member or*
30 *a disabled member* who was receiving a disability
31 allowance that began to accrue after June 30, 1972.

32 (b) (1) For the family allowance to be payable upon
33 the death of ~~a~~ *the* member, all of the following conditions
34 shall be met at the time of death:

35 (A) Death occurred after June 30, 1972.

36 (B) A preretirement election of an option is not in
37 effect.

38 (C) The provisions for the death payment under this
39 part have been met.

1 (2) In addition to the conditions specified in
2 paragraph (1), at least one-half year of credited service
3 had been performed subsequent to the end of the last
4 break, if a break in service of more than one year had
5 occurred.

6 (3) In addition to the conditions specified in
7 paragraph (1), at least one year of credited service had
8 been performed subsequent to the last reinstatement
9 date, if reinstated from service or disability retirement.

10 (c) The family allowance ~~is~~ *shall be paid* in lieu of the
11 return of the member's accumulated retirement
12 contributions.

13 (d) The family allowance may be terminated, if all
14 eligible beneficiaries formally waive their rights in
15 accordance with the requirements established by the
16 system.

17 *SEC. 190. Section 23850 of the Education Code is*
18 *amended to read:*

19 23850. This chapter governs the eligibility, benefit
20 provisions, allowance computations, and related
21 provisions for the death benefits payable upon the death
22 of eligible members. "Member," as used in this chapter,
23 means all persons who ~~became~~ *become* members of the
24 ~~system plan~~ *on and* or after October 16, 1992, and all
25 persons who were members as of October 15, 1992, who
26 elected, pursuant to Chapter 21.5 (commencing with
27 Section 23700), to be covered under the death benefit
28 provisions of this chapter.

29 *SEC. 191. Section 23851 of the Education Code is*
30 *amended to read:*

31 23851. (a) A death payment of twenty thousand
32 dollars (\$20,000) shall be paid to the beneficiary, as
33 designated pursuant to Section 23300, upon receipt of
34 proof of death of ~~a member~~ *an active member*, who had
35 one or more years of credited service, at least one of
36 which had been performed subsequent to the most
37 recent refund of accumulated retirement contributions,
38 if the member died during any one of the following
39 periods:

1 (1) While in employment for which compensation is
2 paid.

3 (2) Within four months after termination of service or
4 termination of employment, whichever occurs first.

5 (3) Within 12 months of the last day for which
6 compensation was paid, if the member was on an
7 approved leave of absence without compensation for
8 reasons other than disability or military service.

9 (b) A death payment pursuant to this section shall not
10 be payable for the death of a member that occurs within
11 one year commencing with the effective date of
12 ~~reinstatement—~~~~from~~ termination of the service
13 retirement allowance pursuant to Section 24208 or
14 during the six calendar months commencing with the
15 effective date of ~~reinstatement—~~~~from~~ termination of the
16 disability retirement allowance pursuant to Section
17 24117.

18 (c) The board may adjust the death payment amount
19 following each actuarial valuation based on changes in
20 the All Urban California Consumer Price Index.

21 (d) A designated beneficiary may waive his or her
22 right to the death payment in accordance with the
23 requirements established by the system.

24 *SEC. 192. Section 23854 of the Education Code is*
25 *amended to read:*

26 23854. (a) A survivor benefit allowance is payable
27 upon receipt of proof of death of a member, as defined in
28 Section 23850, who had one or more years of credited
29 service, at least one of which had been performed
30 subsequent to the most recent refund of accumulated
31 retirement contributions.

32 (b) For the survivor benefit allowance to be payable
33 upon the death of a member, all of the following
34 conditions shall be met at the time of death:

35 (1) Death occurred after October 15, 1992.

36 (2) A preretirement election of an option is not in
37 effect.

38 (3) Death occurs during any one of the following
39 periods:

1 (A) While in employment for which compensation is
2 paid.

3 (B) Within four months after termination of service or
4 termination of employment, whichever occurs first.

5 (C) Within four months after termination of disability
6 allowance.

7 (D) Within four months after reinstatement from
8 disability retirement.

9 (E) Within 12 months following the last day for which
10 compensation was paid if the member was on an
11 approved leave of absence without compensation for
12 reasons other than disability or military service.

13 (4) At least one-half year of credited service had been
14 performed subsequent to the end of the last break *in*
15 *service*, if a break in service of more than one year had
16 occurred.

17 (5) At least one year of credited service had been
18 performed subsequent to the last reinstatement date, if
19 reinstated from service retirement.

20 (c) The survivor benefit allowance ~~is~~ *shall be paid* in
21 lieu of the return of the member's accumulated
22 retirement contributions.

23 (d) The survivor benefit allowance may be
24 terminated, if all eligible beneficiaries formally waive
25 their rights in accordance with the requirements
26 established by the system.

27 *SEC. 193. Section 23859 of the Education Code is*
28 *amended to read:*

29 23859. (a) Upon termination of a survivor benefit
30 allowance pursuant to this chapter ~~and prior to the~~
31 ~~payment of allowances equal to~~, *if the total allowance*
32 *paid or payable is less than* the amount of the member's
33 accumulated retirement contributions at the time of
34 death, the remaining balance *of accumulated retirement*
35 *contributions* shall be paid to the estate of the spouse.

36 (b) Payments provided under this section shall
37 include credited interest on the unpaid balance
38 calculated from the date *the last* survivor benefit
39 ~~allowances were last paid~~ *allowance payment was made*
40 or from the date of death of the member, if no survivor

1 benefit allowance payments were made, to the date the
2 balance is paid.

3 *SEC. 194. Section 23880 of the Education Code is*
4 *amended to read:*

5 23880. (a) A death payment of five thousand dollars
6 (\$5,000) shall be paid to the beneficiary upon receipt of
7 proof of death of ~~either of the following:~~

8 ~~(1) A retirant.~~

9 ~~(2) A~~ a member, if the death payment pursuant to
10 Section 23801 would have otherwise been payable or if
11 the conditions specified pursuant to ~~paragraph~~
12 *paragraphs* (3) and (5) of subdivision (b) of Section 23854
13 are met, and if the member's death occurs during one of
14 the following periods:

15 ~~(A)~~

16 (1) Within one year commencing with the effective
17 date of reinstatement from service retirement pursuant
18 to Section 24208.

19 ~~(B)~~

20 (2) Within six months commencing with the effective
21 date of reinstatement from disability retirement
22 pursuant to Section 24117.

23 (b) The board may adjust the death payment amount
24 following each actuarial valuation based on changes in
25 the All Urban California Consumer Price Index.

26 *SEC. 195. Section 23881 of the Education Code is*
27 *amended to read:*

28 23881. (a) Upon receipt of proof of death of a ~~retirant~~
29 ~~member~~ who retired after June 30, 1972, and of the
30 ~~retirant's retired member's~~ option beneficiary, ~~prior to if~~
31 ~~the time the~~ total retirement allowance paid or payable
32 ~~equals the~~ *is less than the amount of the member's*
33 *accumulated retirement contributions at the time of*
34 *retirement, the difference remaining balance of*
35 *accumulated retirement contributions* shall be paid to
36 the beneficiary, if no option was elected, or to the estate
37 of the option beneficiary, if an option was elected.

38 (b) Payments provided under this section shall
39 include credited interest on the unpaid balance
40 calculated from the date ~~retirement allowances were last~~

1 ~~paid~~ the last allowance payment was made to the date the
2 balance is paid.

3 SEC. 196. Section 24001 of the Education Code is
4 amended to read:

5 24001. (a) A member may apply for a disability
6 allowance if the member has five or more years of
7 credited service and if all of the following requirements
8 are met:

9 (1) At least four years were credited for actual service
10 performed ~~in a position requiring membership in the~~
11 ~~system~~ *subject to coverage by the plan*. Credit received
12 because of workers' compensation payments shall be
13 counted toward the four-year requirement.

14 (2) The last five years of credited service have been
15 served in this state.

16 (3) At least one year was credited for service
17 performed subsequent to the date on which the member
18 ~~was reinstated to membership~~ *terminated the service*
19 *retirement allowance* under Section 24208.

20 (4) At least one year was credited for service
21 performed subsequent to the most recent refund of
22 accumulated retirement contributions.

23 (5) The member has not attained normal retirement
24 age, or has unused sick leave with sufficient days to have
25 the member receive salary on account of sick leave to
26 normal retirement age.

27 (6) The member is not applying for a disability
28 allowance because of a physical or mental condition
29 known to exist at the time the most recent membership
30 in ~~this system~~ *the plan* commenced and *that* remains
31 substantially unchanged at the time of application.

32 (b) Nothing in this section shall affect the right of a
33 member to a disability allowance if the reason that the
34 member has *performed* less than four years of actual
35 service is due to an on-the-job injury or *a disease while in*
36 ~~a position requiring membership in the system~~
37 *employment subject to coverage by the plan*.

38 (c) A member shall not be eligible for disability under
39 this ~~system~~ *plan* while on a leave of absence to serve as a

1 full-time elected officer of an employee organization,
2 even if receiving service credit under Section 22711.

3 *SEC. 197. Section 24003 of the Education Code is*
4 *amended to read:*

5 24003. (a) The member shall provide medical
6 documentation ~~related~~ to *substantiate* the impairment
7 qualifying ~~him or her~~ *the member* for the disability
8 allowance.

9 (b) On receipt of an application for disability
10 allowance, the system may order a medical examination
11 of a member to determine whether the member is
12 incapacitated for ~~further~~ *performance of* service. The
13 medical examination shall be conducted by a practicing
14 physician, selected by the board, with expertise in the
15 member's disability and the board shall pay all costs
16 associated with the examination. The board shall pay all
17 other reasonable costs related to travel and meals in
18 accordance with the rates set for state employees by the
19 Department of Personnel Administration. If the member
20 refuses to submit to the required medical examination,
21 the application for disability allowance shall be rejected.
22 The member shall either remain in ~~the~~ *this* state, or
23 return to this state at the member's own expense, to
24 undergo the initial evaluations or examinations, or the
25 application shall be ~~disallowed~~ *rejected*, unless this
26 requirement is waived by the board. If the member is too
27 ill to be examined, the system shall postpone the
28 examination until the member can be examined. The
29 member or the member's treating physician shall inform
30 the system, in writing, when the medical examination can
31 be rescheduled.

32 (c) The system may reject the disability allowance
33 application if the member fails to provide requested
34 medical documentation to substantiate a disability, as
35 defined in Section ~~22425~~ *22126*, within 45 days from the
36 date of the request or within 30 days from the time that
37 a legally designated representative is empowered to act
38 on behalf of a member who is ~~too~~ mentally or physically
39 incapacitated ~~to comply~~.

1 (d) If the board determines that a member who has
 2 applied for a disability allowance may perform ~~his or her~~
 3 ~~usual duties or those of service in the member's former~~
 4 *position of employment or in a comparable level position*
 5 with the assistance of reasonable accommodation, the
 6 board may require the member to request reasonable
 7 accommodation from the employer. Failure of the
 8 member to request reasonable accommodation, as
 9 directed by the board, may be grounds for cancellation of
 10 the disability allowance application.

11 (e) ~~In the event that~~ *If* the employer fails or refuses to
 12 provide reasonable accommodation, the board may
 13 require the member to pursue an administrative appeal
 14 of the employer's denial as a condition for receiving a
 15 disability allowance.

16 (f) The system shall inform the member of ~~any~~ *the*
 17 rejection *or cancellation* of ~~a~~ *the* member's disability
 18 allowance application within 30 days after that
 19 determination is made by the system.

20 *SEC. 198. Section 24004 of the Education Code is*
 21 *amended to read:*

22 24004. In ~~those~~ cases of *a member's* willful substance
 23 abuse or ~~where~~ *if* the board determines a member
 24 ~~qualifying~~ *who qualifies* for a disability allowance
 25 pursuant to Section 24001 has mental, physical, or
 26 vocational rehabilitation potential, the board may limit
 27 the disability allowance to a period not to exceed two
 28 years from the date of approval of the disability
 29 allowance. Notwithstanding Section 24013, the disability
 30 allowance shall terminate at the end of the period
 31 granted unless ~~extended~~ *an extension is granted* by the
 32 board.

33 *SEC. 199. Section 24005 of the Education Code is*
 34 *amended to read:*

35 24005. (a) A disability allowance shall become
 36 effective upon any date designated by the member,
 37 provided all of the following conditions are met:

38 (1) An application for disability allowance is filed on a
 39 form provided by the system.

1 (2) The effective date is later than the last day of
2 service for which ~~salary~~ *compensation* is payable to the
3 member.

4 (3) The effective date is no earlier than either the first
5 day of the month in which the application is received by
6 the ~~system~~ *system's office* in Sacramento, or the date
7 upon and continuously after which the member is
8 determined to the satisfaction of the board to have been
9 mentally incompetent.

10 (b) If the member is employed ~~in a position requiring~~
11 ~~membership in the system to perform creditable service~~
12 *subject to coverage by the plan* at the time the disability
13 allowance is approved, the member shall notify the
14 system in writing, within 90 days, of the last day on which
15 ~~he or she~~ *the member* will perform service. If the
16 member does not respond within 90 days, or if the last day
17 on which service will be performed is more than 90 days
18 after the date the system notifies the member of approval
19 of the disability allowance, the member's application for
20 a disability allowance shall be rejected and a disability
21 allowance shall not be payable to the member.

22 *SEC. 200.* Section 24011 of the Education Code is
23 amended to read:

24 24011. ~~Any member qualifying~~ *A member who*
25 *qualifies* for disability allowance pursuant to this chapter
26 ~~with~~ *because of* a disabling impairment *that is* amenable
27 to treatment that could be ~~expected to restore ability to~~
28 ~~perform the member's usual duties or those of a~~
29 ~~comparable level position shall~~ *expected to restore the*
30 *member's ability to perform service in the member's*
31 *former position of employment or a comparable level*
32 *position shall* participate in a treatment program
33 prescribed by the member's primary treating physician.
34 Willful failure to initiate and continue participation in the
35 program shall cause the disability allowance to be
36 terminated. In determining whether a member has good
37 cause for failure to follow the treatment, the board shall
38 take into account whether treatment would abridge the
39 member's right to the free exercise of religion or whether
40 the ~~medical~~ *member's physical or mental* condition has

1 worsened, as determined by the member's treating
2 physician and substantiated by medical evidence.

3 ~~SEC. 91.~~

4 *SEC. 201.* Section 24012 of the Education Code is
5 amended to read:

6 24012. (a) ~~Any member qualifying~~ *A member who*
7 *qualifies* for a disability allowance pursuant to this
8 chapter who is determined by the board to have a mental,
9 physical, or vocational rehabilitation potential that could
10 be expected to restore ~~ability to perform the member's~~
11 ~~usual duties or those of the member's ability to perform~~
12 *service in the member's former position of employment*
13 *or* a comparable level position shall participate in an
14 appropriate *rehabilitation* program approved by the
15 board. The board shall pay all reasonable costs of the
16 approved program. Willful failure to initiate and continue
17 participation in the *rehabilitation* program shall cause the
18 disability allowance to be terminated. In determining
19 whether a member has good cause for failure to
20 participate in the program the board shall take into
21 account whether the participation would abridge the
22 member's right to the free exercise of religion or whether
23 the ~~medical~~ *member's physical or mental* condition has
24 worsened, as determined by the member's treating
25 physician and substantiated by medical evidence.

26 (b) Any cost for the approved rehabilitation program
27 prescribed by the board shall be paid directly by the
28 system *from the fund*.

29 ~~SEC. 92.~~ Section 24117 of the Education Code is
30 amended to read:

31 24117. (a) ~~A disability retirement allowance may be~~
32 ~~terminated and the member who retired for disability~~
33 ~~pursuant to this chapter may be reinstated to status as an~~
34 ~~inactive member if the member who retired for disability~~
35 ~~submits a written request for reinstatement.~~

36 (b) ~~If a member retired for disability is determined by~~
37 ~~the board to no longer be eligible to receive a disability~~
38 ~~retirement allowance pursuant to this chapter, the~~
39 ~~disability retirement allowance shall be terminated and~~

1 ~~the member retired for disability shall be reinstated to~~
2 ~~status as an inactive member.~~

3 ~~SEC. 93.—~~

4 *SEC. 202. Section 24013 of the Education Code is*
5 *amended to read:*

6 24013. The board may require any member receiving
7 a disability allowance to undergo medical examination at
8 such times as ~~it~~ *the board* deems necessary. The system
9 may request the ~~member's~~ *member's* treating physician, upon
10 authorization by the ~~disabillant~~ *disabled member*, to
11 complete a medical reevaluation questionnaire. The
12 system shall reimburse the ~~disabillant~~ *disabled member*
13 for all reasonable costs related to *completion of* this
14 questionnaire ~~if the cost of the questionnaire is no greater~~
15 ~~than~~ *in an amount not to exceed* two hundred fifty dollars
16 (\$250) ~~and the disabillant if the disabled member has no~~
17 ~~other health coverage for that would pay~~ the costs of
18 *completing* the medical questionnaire. The board may
19 authorize ~~any subsequent~~ *a* medical examination to be
20 conducted by the *disabled member's* treating source ~~of~~
21 ~~the disabillant~~ at the *disabled member's* expense ~~of the~~
22 ~~disabillant~~ and, in any case, may require a medical
23 examination to be conducted by a physician selected by
24 the board, in which event, the board shall pay all
25 reasonable costs associated with the examination. The
26 board shall, in scheduling medical examinations, give
27 consideration to the interests and convenience of the
28 ~~disabillant~~ *disabled member*. If the examination,
29 together with other available information, shows to the
30 satisfaction of the board that the ~~disabillant~~ *member* is
31 no longer disabled, the disability allowance shall ~~cease be~~
32 *terminated*. Should the ~~disabillant~~ *disabled member*
33 refuse to submit to medical examination, as provided in
34 this section, the disability allowance ~~payments~~ shall be
35 ~~discontinued~~ *terminated* and all rights of the ~~disabillant~~
36 ~~in disabled member to~~ the disability allowance shall be
37 revoked.

38 *SEC. 203. Section 24014 of the Education Code is*
39 *amended to read:*

1 24014. A ~~disabilitant~~ disabled member may be
 2 employed in ~~a position requiring certification~~
 3 ~~qualifications to perform creditable service.~~ The
 4 employment ~~does not operate to terminate or suspend~~
 5 ~~the disability allowance shall not cause the disability~~
 6 ~~allowance to be suspended or terminated~~ except as
 7 provided in Sections 23401, 24013, and 24015, and no
 8 deduction shall be made from the ~~disabilitant's salary~~
 9 ~~disabled member's compensation~~ as contributions to ~~this~~
 10 ~~system the plan.~~

11 SEC. 203.5. Section 24015 of the Education Code is
 12 amended to read:

13 24015. ~~If~~ Notwithstanding Section 22132, if a person
 14 who begins to receive a disability allowance after June 30,
 15 1972, is employed, or is self-employed in any capacity in
 16 which his or her average earnings for any prior
 17 continuous six months amount to $66\frac{2}{3}$ percent of the
 18 indexed final compensation, the person shall be
 19 presumed capable of performing gainful employment
 20 and no longer disabled. The disability allowance shall be
 21 terminated on the first day of the month following the
 22 six-month period. Any allowance paid thereafter shall be
 23 considered an overpayment and recovery shall be made.

24 SEC. 204. Section 24018 of the Education Code is
 25 amended to read:

26 24018. ~~Where~~ When a ~~disabilitant~~ disabled member
 27 returns to work in ~~his or her former position of~~
 28 ~~employment or in~~ a comparable level position and within
 29 six months of return experiences a recurrence of the
 30 original disability, that can be medically substantiated, it
 31 shall be considered, for the purpose of determining the
 32 duration of the disability, that the condition had its onset
 33 as of the date the member first became disabled. The
 34 former disability allowance shall ~~be restored~~ again
 35 ~~become payable~~ as of the later of the first day of the
 36 month in which the recurrence of the disability occurred
 37 or the last day of ~~service for which~~ compensation is
 38 ~~payable to the member~~ provided the member complies
 39 with the provisions ~~in~~ of Section 24003.

1 *SEC. 205. Section 24100 of the Education Code is*
2 *amended to read:*

3 24100. This chapter governs the eligibility, allowance
4 computations, and related provisions for the disability
5 retirement program. This chapter applies to all persons
6 who become members of the ~~system plan~~ on and or after
7 October 16, 1992, all persons who ~~reenter membership on~~
8 ~~and after~~ *become members of the plan on or after*
9 October 16, 1992, ~~following~~ *subsequent to* a refund, and
10 to all members as of October 15, 1992, who elect, pursuant
11 to Chapter 21.5 (commencing with Section 23700), to be
12 covered by the disability retirement program set forth in
13 this chapter.

14 *SEC. 206. Section 24101 of the Education Code is*
15 *amended to read:*

16 24101. (a) A member may apply for a disability
17 retirement if the member has five or more years of
18 credited service and if all of the following requirements
19 are met:

20 (1) At least four years were credited for actual service
21 performed ~~in a position requiring membership in the~~
22 ~~system~~ *subject to coverage by the plan*. Credit received
23 because of workers' compensation payments shall be
24 counted toward the four-year requirement.

25 (2) The last five years of credited service have been
26 served in this state.

27 (3) At least one year (1.000) of credited service was
28 earned subsequent to the date on which the member ~~was~~
29 ~~reinstated to membership~~ *terminated the service*
30 *retirement allowance* under Section 24208.

31 (4) At least one year (1.000) of credited service was
32 earned subsequent to the date on which the member's
33 disability allowance was terminated.

34 (5) At least one year (1.000) of credited service was
35 earned subsequent to the most recent refund of
36 accumulated retirement contributions.

37 (6) The member is not applying for a disability
38 retirement because of a physical or mental condition
39 known to exist at the time the most recent membership

1 in ~~this system~~ *the plan* commenced and that remains
2 substantially unchanged at the time of application.

3 (b) Nothing in this section shall affect the right of a
4 member to a disability retirement if the reason that the
5 member has *performed* less than four years of actual
6 service is due to an on-the-job injury or *a disease while*
7 ~~in a position requiring membership in the system~~
8 *employment subject to coverage by the plan.*

9 (c) A member shall not be eligible for disability
10 retirement from ~~this system plan~~ while on a leave of
11 absence to serve as a full-time elected officer of an
12 employee organization, even if receiving service credit
13 under Section 22711.

14 *SEC. 207. Section 24102 of the Education Code is*
15 *amended to read:*

16 24102. The board may authorize payment of a
17 disability retirement allowance to any member who is
18 qualified upon application by the member, the *member's*
19 guardian or conservator, or the *member's* employer, if
20 the application is made during any one of the following
21 periods:

22 (a) While the member is employed or on a
23 compensated leave of absence.

24 (b) While the member is physically or mentally
25 incapacitated for performance of ~~his or her duty~~ *service*
26 and the incapacity has been continuous from the last day
27 for which compensation ~~was paid~~ *is payable* to the
28 member.

29 (c) While the member is on a leave of absence without
30 compensation, granted for reason other than mental or
31 physical incapacity for performance of ~~his or her duty~~
32 *service*, and within four months after the last day of
33 ~~employment~~ *service* for which compensation ~~was paid~~ *is*
34 *payable* to the member, or within 12 months ~~while on an~~
35 ~~official district~~ *of that date if the member was on an*
36 *employer-approved* leave to study at an approved college
37 or university.

38 (d) Within four months after the termination of the
39 member's employment ~~in a position requiring~~
40 ~~membership in the system~~ *subject to coverage by the*

1 *plan*, if the application was not made under subdivision
2 (b) and was not made more than four months after the
3 last day of service for which compensation ~~was paid~~ is
4 payable to the member.

5 (e) The member is not applying for a disability
6 retirement allowance because of a physical or mental
7 condition that existed at the time the most recent
8 membership in ~~this system~~ *the plan* commenced and ~~that~~
9 *which* remains substantially unchanged at the time of
10 application.

11 *SEC. 208. Section 24103 of the Education Code is*
12 *amended to read:*

13 24103. (a) The member shall provide medical
14 documentation ~~related to~~ *substantiating* the impairment
15 qualifying ~~him or her~~ *the member* for the disability
16 retirement.

17 (b) On receipt of an application for disability
18 retirement, the system may order a medical examination
19 of a member to determine whether the member is
20 incapacitated for ~~further~~ *performance of* service. The
21 medical examination shall be conducted by a practicing
22 physician, selected by the board, with expertise in the
23 member's disability, and the board shall pay all costs
24 associated with the examination. The board shall pay all
25 other reasonable costs related to travel and meals in
26 accordance with the rates set for state employees by the
27 Department of Personnel Administration. If the member
28 refuses to submit to the required medical examination,
29 the application for disability retirement shall be rejected.
30 The member shall either remain in this state, or return to
31 this state at the member's own expense, to undergo the
32 initial evaluations or examinations or the application shall
33 be ~~disallowed~~ *rejected*, unless this requirement is waived
34 by the board. If the member is too ill to ~~comply with this~~
35 ~~examination~~ *be examined*, the system shall postpone the
36 examination until ~~a time that~~ the member can be
37 examined. The member or the member's treating
38 physician shall inform the system, in writing, when the
39 medical examination can be rescheduled.

(c) The system may reject the disability retirement application if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section ~~22125~~ 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is ~~too-incapacitated~~ mentally or physically ~~to-comply~~ incapacitated.

(d) If the board determines that a member who has applied for disability retirement may perform ~~his or her~~ *usual duties or those of service in the member's former position of employment or in a comparable level position* with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability retirement application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability retirement allowance.

(f) The system shall inform the member of ~~any the~~ *rejection or cancellation of a the member's disability retirement allowance application* within 30 days after that determination is made by the system.

SEC. 209. Section 24104 of the Education Code is amended to read:

24104. In ~~those~~ *cases of a member's willful substance abuse or where if the board determines a member qualifying who qualifies for disability retirement pursuant to this chapter has mental, physical, or vocational rehabilitation potential, the board may limit the disability retirement to a period not to exceed two years from the date of approval of the disability retirement. Notwithstanding Section 24112, the disability retirement allowance shall terminate at the end of the period granted unless extended an extension is granted* by the board.

1 SEC. 210. Section 24105 of the Education Code is
2 amended to read:

3 24105. (a) A disability retirement allowance shall
4 become effective upon any date designated by the
5 member, provided that all of the following conditions are
6 met:

7 (1) An application for disability retirement is filed on
8 a form provided by the system.

9 (2) The effective date is later than the last day of
10 service for which ~~salary~~ *compensation* is payable to the
11 member.

12 (3) The effective date is no earlier than either the first
13 day of the month in which the application is received ~~by~~
14 ~~the system at the system's office~~ in Sacramento, or the
15 date upon and continuously after which the member is
16 determined to the satisfaction of the board to have been
17 mentally incompetent.

18 (b) If a member's application for disability retirement
19 does not contain an election of either an unmodified
20 allowance or an allowance modified under an option and
21 if the member subsequently submits an election, but not
22 within the 30-day period established pursuant to Section
23 24301, the board shall set a benefit effective date which
24 is no earlier than the first day of the month in which the
25 subsequent election is received by the system. If the
26 member fails to submit an election pursuant to Section
27 24301 and within six months of the date the
28 acknowledgement notice is mailed pursuant to Section
29 24301, the member's application for disability retirement
30 shall be rejected.

31 (c) If the member is employed ~~in a position requiring~~
32 ~~membership in the system~~ *to perform creditable service*
33 *subject to coverage by the plan* at the time the disability
34 retirement is approved, the member shall notify the
35 system in writing, within 90 days, of the last day on which
36 ~~he or she~~ *the member* will perform service. If the
37 member does not respond within 90 days, or if the last day
38 on which service will be performed is more than 90 days
39 after the date the system notifies the member of the
40 approval of disability retirement, the member's

1 application for disability retirement shall be rejected and
2 a disability retirement allowance shall not be payable to
3 the member.

4 *SEC. 211. Section 24107 of the Education Code is*
5 *amended to read:*

6 24107. A ~~disability—retirant~~ member retired for
7 disability may elect an option pursuant to Section 24301
8 to modify the disability retirement allowance payable
9 pursuant to subdivision (a) of Section 24106.

10 *SEC. 212. Section 24110 of the Education Code is*
11 *amended to read:*

12 24110. ~~Any—member—qualifying~~ A member who
13 qualifies for disability retirement pursuant to this chapter
14 ~~with because of~~ a disabling impairment that is amenable
15 to treatment that could be expected to restore ability to
16 ~~perform the member's usual duties or those of the~~
17 ~~member's ability to perform service in the member's~~
18 ~~former position of employment or in~~ a comparable level
19 position shall participate in a treatment program
20 prescribed by the member's primary treating physician.
21 Willful failure to initiate and continue participation in the
22 program shall cause the disability retirement allowance
23 to be terminated. In determining whether a member has
24 good cause for failure to follow that treatment, the board
25 shall take into account whether the treatment would
26 abridge the member's right to the free exercise of religion
27 or whether the ~~medical~~ member's physical or mental
28 condition has worsened as determined by the member's
29 treating physician and substantiated by medical
30 evidence.

31 *SEC. 213. Section 24111 of the Education Code is*
32 *amended to read:*

33 24111. (a) ~~Any—member—qualifying~~ A member who
34 qualifies for disability retirement pursuant to this chapter
35 who is determined by the board to have a mental,
36 physical, or vocational rehabilitation potential that could
37 be expected to restore ability to ~~perform the member's~~
38 ~~usual duties or those of the member's ability to perform~~
39 ~~service in the member's former position of employment~~
40 ~~or in~~ a comparable level position shall participate in an

1 appropriate *rehabilitation* program approved by the
2 board. The board shall pay all reasonable costs of the
3 approved program. Willful failure to initiate and continue
4 participation in the *rehabilitation* program shall cause the
5 disability retirement allowance to be terminated. In
6 determining whether a member has good cause for
7 failure to participate in the program the board shall take
8 into account whether the participation would abridge the
9 member's right to the free exercise of religion or whether
10 the ~~medical~~ *member's physical or mental* condition has
11 worsened as determined by the member's treating
12 physician and substantiated by medical evidence.

13 (b) Any cost for the approved rehabilitation program
14 prescribed by the board shall be paid directly by the
15 system *from the fund*.

16 *SEC. 214. Section 24112 of the Education Code is*
17 *amended to read:*

18 24112. The board may require ~~any disability retiree~~
19 *a member* receiving ~~an~~ *a disability retirement* allowance
20 to undergo medical examination at such times as ~~it~~ *the*
21 *board* deems necessary. The system may request the
22 *member's* treating physician, upon authorization by the
23 ~~disability retiree~~ *retired member*, to complete a medical
24 reevaluation questionnaire. The system shall reimburse
25 the ~~disability retiree~~ *retired member* for all reasonable
26 costs related to *completion of* this questionnaire ~~if the cost~~
27 ~~of completing the questionnaire is no greater than in an~~
28 ~~amount not to exceed two hundred fifty dollars (\$250)~~
29 ~~and the disability retiree if the retired member has no~~
30 other health coverage ~~that pays for that would pay for~~ the
31 cost of completing the medical questionnaire. The board
32 may authorize ~~any subsequent~~ *a* medical examination to
33 be conducted by the *retired member's* treating source ~~of~~
34 ~~the retiree~~ at the *retired member's* expense ~~of the~~
35 ~~retiree~~ and, in any case, may require a medical
36 examination to be conducted by a physician selected by
37 the board, in which event, the board shall pay all
38 reasonable costs associated with the examination. The
39 board shall, in scheduling medical examinations, give
40 consideration to the interests and convenience of the

1 ~~disability~~ ~~retirant~~ ~~receiving the disability retirement~~
2 ~~allowance~~ *retired member*. If the examination, together
3 with other available information, shows to the satisfaction
4 of the board that the ~~retirant~~ *retired member* is no longer
5 disabled, the disability retirement allowance shall ~~cease~~
6 *be terminated*. Should the ~~retirant~~ *retired member*
7 refuse to submit to medical examination, as provided in
8 this section, ~~payments to the member under the disability~~
9 ~~shall be discontinued~~ *the member's disability retirement*
10 *allowance shall be terminated* and all rights of the *retired*
11 *member in* to the disability retirement allowance shall be
12 revoked.

13 SEC. 215. Section 24113 of the Education Code is
14 amended to read:

15 24113. A ~~disability~~ ~~retirant~~ *member retired for*
16 *disability* may be employed ~~in a position requiring~~
17 ~~certification qualifications to perform creditable service~~.
18 The employment ~~does not operate to terminate or~~
19 ~~suspend the disability retirement allowance~~ *shall not*
20 *cause the disability retirement allowance to be suspended*
21 *or terminated, except as provided in Section 24112, and*
22 no deduction shall be made from the ~~disability~~ ~~retirant's~~
23 ~~salary~~ *retired member's compensation* as contributions to
24 ~~this system~~ *the plan*.

25 SEC. 216. Section 24114 of the Education Code is
26 amended to read:

27 24114. (a) A member retired for disability may be
28 employed or self-employed *in any capacity,*
29 *notwithstanding Section 22132,* but shall not make
30 contributions to the retirement fund or accrue service
31 credit based on earnings from any employment.

32 (b) A member retired for disability may earn in any
33 one calendar year up to the limitation specified in
34 subdivision (c) without a reduction in his or her disability
35 retirement allowance.

36 (c) The limitation that shall apply to the earnings of a
37 member retired for disability shall be fifteen thousand
38 dollars (\$15,000), in any one school year, adjusted
39 annually by the board each July 1 by the annual amount

1 of increase in the All Urban California Consumer Price
2 Index using December 1989 as the base.

3 (d) If a member retired for disability earns in excess of
4 the limitation specified in subdivision (c) from all
5 employment in any calendar year, *notwithstanding*
6 *Section 22132*, his or her retirement allowance shall be
7 reduced by the amount of the excess earnings. The
8 amount of the reduction may be equal to the monthly
9 allowance payable but shall not exceed the amount of the
10 annual allowance payable under this part for the calendar
11 year in which the excess compensation was earned.

12 (e) The earnings limitation specified in this section
13 shall not be applicable to a member retired for disability
14 who is participating in an approved rehabilitation
15 program pursuant to Section 24111.

16 (f) This section shall not be applicable to a member
17 retired for disability who began receiving a disability
18 retirement allowance prior to October 16, 1992.

19 *SEC. 217. Section 24116 of the Education Code is*
20 *amended to read:*

21 24116. ~~Any disability retirant~~ *A member retired for*
22 *disability* whose last employment was in the California
23 State University, as a member of this ~~system plan~~ or the
24 Public Employees' Retirement System, may serve as a
25 member of the teaching staff of the California State
26 University and shall be subject to the employment
27 limitations as provided by the Public Employees'
28 Retirement Law (Part 3 (commencing with Section
29 20000) of Division 5 of Title 2 of the Government Code).

30 *SEC. 218. Section 24117 of the Education Code is*
31 *amended to read:*

32 24117. (a) ~~Any retirant who is retired for disability~~
33 ~~pursuant to this chapter may be reinstated to~~
34 ~~membership by the board upon receipt of the retirant's~~
35 ~~written request to terminate the disability retirement~~
36 ~~allowance and reinstate to membership in the system~~ *A*
37 *member retired for disability may terminate the*
38 *disability retirement allowance upon written request to*
39 *the system.*

1 ~~(b) The allowance of a~~ *If a member retired for*
2 ~~disability retiree who~~ is determined by the board to no
3 longer be eligible to receive a disability retirement
4 allowance pursuant to this chapter, *the disability*
5 *retirement allowance* shall be terminated ~~and the~~
6 ~~disability retiree shall be reinstated to membership in~~
7 ~~the system.~~

8 SEC. 219. Section 24119 of the Education Code is
9 amended to read:

10 24119. When a member retired for disability returns
11 to work in *the member's former position of employment*
12 *or in* a comparable level position and within six months
13 of return experiences a recurrence of the original
14 disability, which can be medically substantiated, it shall
15 be considered, for the purpose of determining the
16 duration of the disability, that the condition had its onset
17 as of the date the member first became disabled. The
18 former disability retirement allowance shall ~~be restored~~
19 *again become payable* as of the later of the first day of the
20 month in which the recurrence of the disability occurred
21 or the last day of ~~compensation~~ *service for which*
22 *compensation is payable to the member*, provided the
23 member complies with Section 24103.

24 ~~SEC. 94.~~

25 SEC. 220. Section 24201 of the Education Code is
26 amended to read:

27 24201. (a) ~~Any member who comes within any of the~~
28 ~~following descriptions may be retired for service at his or~~
29 ~~her option~~ *A member may retire for service* upon written
30 application for retirement to the board, ~~subject to the~~
31 ~~following conditions under paragraph (1) or (2) as~~
32 *follows:*

33 (1) The member has attained age 55 years or more and
34 has at least five years of credited California service, at
35 least one year of which has been performed subsequent
36 to the most recent refund of accumulated retirement
37 contributions, if five of the final six years of credited
38 service have been in this state.

39 (2) The member is credited with service that is not
40 used as a basis for benefits under any other public

1 retirement system, if he or she has attained age 55 years
2 and retires concurrently under the Public Employees'
3 Retirement System, the Legislators' Retirement System,
4 the University of California Retirement System, or a ~~local~~
5 ~~system~~ the San Francisco City and County Employees'
6 Retirement System.

7 (b) In the calculation of allowances of members who
8 qualify for retirement under paragraph (2) of subdivision
9 (a) and who are not qualified for retirement under
10 paragraph (1) of that subdivision, ~~there shall be excluded~~
11 any service performed in other states of the United States,
12 its territories and possessions, or in Canada *shall be*
13 *excluded*.

14 (c) Application for retirement under paragraph (2) of
15 subdivision (a) may be made at any time.

16 *SEC. 221. Section 24202 of the Education Code is*
17 *amended to read:*

18 24202. (a) ~~Upon retirement for service that became~~
19 ~~effective~~ A member who retires for service after June 30,
20 1972, a ~~member~~ shall receive a retirement allowance ~~that~~
21 ~~shall consist~~ consisting of both of the following:

22 (1) An annual allowance payable in monthly
23 installments, upon retirement at normal retirement age
24 or over, equal to 2 percent of the final compensation for
25 each year of credited service. If the *member's* retirement
26 ~~of a member~~ is effective at less than normal retirement
27 age and between early retirement age and normal
28 retirement age, ~~this~~ the *member's* allowance shall be
29 reduced by one-half of 1 percent for each full month, or
30 fraction of a month that will elapse until the member will
31 attain normal retirement age.

32 (2) An annuity that shall be the actuarial equivalent of
33 the accumulated annuity deposit contributions standing
34 to the credit of ~~his or her~~ the *member's* account at the
35 time of ~~his or her~~ retirement.

36 (b) In computing the amounts described in
37 subdivision (a), the age of the member ~~at~~ on the last day
38 of the month in which the retirement allowance begins
39 to accrue or such later date as provided in Section 24204
40 shall be used.

1 SEC. 222. Section 24203 of the Education Code is
2 amended to read:

3 24203. (a) ~~Members with~~ A member who has 30
4 years of credited service may retire at age 50 years or
5 older and receive an annual allowance equal to 2 percent
6 of final compensation for each year of credited service. If
7 the member has attained age 50 years, but has not
8 attained early retirement age, the allowance shall be
9 reduced by one-quarter of 1 percent for each full month
10 or fraction of a month that will elapse until the member
11 will attain early retirement age and one-half of 1 percent
12 for each full month, or fraction of a month between early
13 retirement age and normal retirement age.

14 (b) In computing the amounts described in
15 subdivision (a), the age of the member ~~at~~ on the last day
16 of the month in which the retirement allowance begins
17 to accrue or any later date provided in Section 24204 shall
18 be used.

19 SEC. 223. Section 24204 of the Education Code is
20 amended to read:

21 24204. A service retirement allowance shall become
22 effective upon any date designated by the member,
23 provided all of the following conditions are met:

24 (a) An application for service retirement allowance is
25 filed on a form provided by the system, that is executed
26 no earlier than six months before the effective date of
27 retirement allowance.

28 (b) The effective date is later than the last day of
29 ~~credited~~ creditable service for which salary
30 compensation is payable to the member.

31 (c) The effective date is no earlier than the first day of
32 the month in which the application is received ~~by the~~
33 ~~system~~ at the system's office in Sacramento.

34 (d) Either of the following conditions exists:

35 (1) The effective date is no earlier than one year
36 following the date on which ~~the member~~ the retirement
37 allowance was ~~reinstated~~ terminated under Section
38 24208, or subdivision (a) of Section 24117.

39 (2) The effective date is no earlier than the date upon
40 and continuously after which the member is determined

1 to the satisfaction of the board to have been mentally
2 incompetent.

3 *SEC. 224. Section 24205 of the Education Code is*
4 *amended to read:*

5 24205. (a) The board shall, in consultation with
6 members, develop, adopt, and implement an additional
7 ~~optional~~ early retirement ~~plan~~ *alternative* that will allow
8 ~~an employee~~ *a member* to receive a minimum retirement
9 allowance prior to normal retirement age if the ~~employee~~
10 *member* has at least attained early retirement age. Under
11 the ~~plan~~ *alternative*, the member shall continue to
12 receive the minimum retirement allowance past normal
13 retirement age until the ~~amounts~~ *total amount* paid prior
14 to normal retirement age ~~equal~~ *equals* the difference
15 between the minimum retirement allowance and the
16 ~~benefits~~ *retirement allowance* that would have been
17 ~~provided~~ *paid* to the member under ~~regular service~~
18 ~~retirement~~ *Section 24202 or 24203, whichever is*
19 *applicable*, at normal retirement age, and thereafter ~~shall~~
20 ~~be paid the regular~~ *the service* retirement allowance for
21 normal retirement age *shall be paid*. The board shall
22 determine the age past normal retirement at which the
23 increase will be made by determining how long the
24 minimum retirement allowance would have to be paid
25 beyond age 60 years in order for the amount paid prior to
26 age 60 years to equal the difference between the
27 minimum retirement allowance and the ~~amount~~
28 *allowance* that would have been ~~provided~~ *paid* to the
29 member under ~~regular~~ service retirement at normal
30 retirement age. The board shall integrate the ~~optional~~
31 ~~plan~~ *early retirement alternative* adopted under this
32 section with the other *early retirement options*
33 *alternatives* that a member may elect under this ~~part~~
34 *chapter*.

35 (b) For the purposes of this section, all contributions,
36 liabilities, actuarial interest rates, and other valuation
37 factors shall be determined on the basis of actuarial
38 assumptions and methods which, in the aggregate, are
39 reasonable and which, in combination, offer the actuary's

1 best estimate of anticipated experience under the ~~system~~
2 *plan*.

3 (c) The additional employer contributions required, if
4 any, under this section shall be computed as a level
5 percentage of member compensation. The additional
6 contribution rate required, if any, shall not be less than
7 the sum of (1) the actuarial normal cost, plus (2) the
8 additional contribution required to amortize the increase
9 in accrued liability attributable to benefits elected under
10 this section over a period of not more than 30 years from
11 January 1, 1979.

12 *SEC. 225. Section 24207 of the Education Code is*
13 *amended to read:*

14 24207. If a ~~service retirant is reinstated~~ *retired*
15 *member terminates a service retirement allowance* and
16 subsequently retires, the minimum retirement allowance
17 ~~is shall be~~ the allowance provided by Section 24206.

18 *SEC. 226. Section 24208 of the Education Code is*
19 *amended to read:*

20 24208. ~~Any retirant who is~~ *A member* retired for
21 service may ~~be reinstated to membership by the board~~
22 ~~upon receipt of the retirant's written request to~~
23 ~~terminate the retirement allowance and reinstate to~~
24 ~~membership in the system upon written request to the~~
25 ~~system.~~

26 *SEC. 227. Section 24209 of the Education Code is*
27 *amended to read:*

28 24209. Upon retirement for service following
29 ~~termination of a prior service retirement and subsequent~~
30 ~~reinstatement to membership in the system~~, the member
31 shall receive a service retirement allowance ~~that shall~~
32 ~~equal to~~ the sum of both of the following:

33 (a) An amount equal to the monthly allowance the
34 member was receiving immediately preceding the most
35 recent ~~reinstatement~~ *termination of retirement*
36 *allowance*, exclusive of any amounts payable pursuant to
37 Section 22714 or 22715, increased by the improvement
38 factor that would have been applied to the allowance if
39 the member had not ~~reinstated~~ *terminated the*
40 *retirement allowance*.

(b) An amount calculated pursuant to Section 24202, 24203, or 24206 on service credited subsequent to the most recent ~~reinstatement~~ *termination of retirement allowance*, the member's age at retirement, and final compensation.

SEC. 228. *Section 24210 of the Education Code is amended to read:*

24210. Upon retirement for service following a prior disability retirement granted pursuant to Chapter 26 (commencing with Section 24100) ~~and subsequent reinstatement to membership in the system that was terminated~~, the member shall receive a service retirement allowance calculated pursuant to Section 24202, 24203, or 24206 and equal to the sum of both of the following:

(a) An amount based on service credit accrued prior to the effective date of the disability retirement, the member's age as of the effective date of the service retirement, and indexed final compensation to the effective date of the service retirement.

(b) An amount based on the service credit accrued after ~~reinstatement from~~ *termination of the* disability retirement, the member's age as of the effective date of service retirement, and final compensation.

SEC. 229. *Section 24214 of the Education Code is amended to read:*

24214. (a) A member retired for service may perform creditable service as defined in Section 22119.5 ~~for an employer as an employee of an employer, as an employee of a third party, or as an independent contractor~~, but shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service.

(b) The rate of pay for service performed by a member retired for service ~~as an employee of the employer~~ shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service shall not be required to reinstate for performing creditable service.

(d) A member retired for service may ~~earn~~
~~compensation for~~ *receive earnings for* creditable service
performed in any one school year up to the limitation
 specified in subdivision (e) without a reduction in his or
 her retirement allowance.

(e) The limitation that shall apply to the earnings from
 creditable service ~~of performed by~~ a member retired for
 service *either as an employee of an employer, an*
employee of a third party, or as an independent
contractor, shall be fifteen thousand dollars (\$15,000), in
 any one school year, adjusted annually by the board each
 July 1 by the annual amount of increase in the All Urban
 California Consumer Price Index using December 1989 as
 the base.

(f) If a member retired for service earns compensation
 for creditable service in excess of the limitation specified
 in subdivision (e), his or her retirement allowance shall
 be reduced by the amount of the excess compensation.
 The amount of the reduction may be equal to the monthly
 allowance payable but shall not exceed the amount of the
 annual allowance payable under this part for the fiscal
 year in which the excess compensation was earned.

The amendments to this section enacted during the
1995–96 Regular Session shall be deemed to have become
operative on July 1, 1996.

SEC. 230. Section 24215 of the Education Code is
amended to read:

~~24215. Any service retiree~~ *A member retired for*
service whose last employment was in the California State
 University, as a member of this ~~system~~ *plan* or the Public
 Employees' Retirement System, may serve as a member
 of the teaching staff of the California State University and
 shall be subject to the employment limitations as
 provided by the Public Employees' Retirement Law
 (Part 3 (commencing with Section 20000) of Division 5 of
 Title 2 of the Government Code).

SEC. 231. Section 24216 of the Education Code is
amended to read:

24216. (a) (1) A member retired for service who is
 appointed as a trustee or administrator by the

1 Superintendent of Public Instruction pursuant to Section
2 41320.1, or a member retired for service who is assigned
3 by a county superintendent of schools pursuant to Article
4 2 (commencing with Section 42120) of Chapter 6 of Part
5 24, shall be exempt from subdivisions (d), (e) and (f) of
6 Section 24214 for a maximum period of two years.

7 (2) The period of exemption shall commence on the
8 date the member retired for service is appointed or
9 assigned and shall end no more than two calendar years
10 from that date, after which the limitation specified in
11 subdivisions (d), (e) and (f) of Section 24214 shall apply.

12 (3) An exemption under this subdivision shall be
13 granted by the system providing that the Superintendent
14 of Public Instruction or the county superintendent of
15 schools submits documentation required by the system to
16 substantiate the eligibility of the member retired for
17 service for an exemption under this subdivision.

18 (b) (1) A member retired for service who is
19 employed *by an employer* to perform creditable service
20 in an emergency situation to fill a vacant administrative
21 position requiring highly specialized skills shall be
22 exempt from the provisions of subdivisions (d), (e) and
23 (f) of Section 24214 for creditable service performed up
24 to one-half of the full-time equivalent for that position, if
25 the vacancy occurred due to circumstances beyond the
26 control of the employer. The limitation specified in
27 subdivisions (d), (e) and (f) of Section 24214 shall apply
28 to creditable service performed beyond the specified
29 exemption.

30 (2) An exemption under this subdivision shall be
31 granted by the system subject to the following conditions:

32 (A) The recruitment process to fill the vacancy on a
33 permanent basis is expected to extend over several
34 months.

35 (B) The employment is reported in a public meeting
36 of the governing body.

37 (C) The employer submits documentation required
38 by the system to substantiate the eligibility of the
39 member retired for service for an exemption under this
40 subdivision.



1 (c) This section shall not apply to any person who has
2 received additional service credit pursuant to Section
3 22714, 22715, or 22716.

4 (d) This section shall become operative on July 1, 1995,
5 and shall remain in effect only until July 1, 2000, and as of
6 that date is repealed, unless a later enacted statute, which
7 is enacted before July 1, 2000, deletes or extends that date.

8 *SEC. 232. Section 24219 of the Education Code is*
9 *amended to read:*

10 24219. Members who were retired under a previously
11 existing local teachers' retirement system or the San
12 Francisco City and County Employees' Retirement
13 System prior to July 1, 1972, who have not retired ~~under~~
14 ~~the State Teachers' Retirement System~~, *under this part*
15 *for the allowance that existed for* local system service
16 performed prior to July 1, 1972, shall have that ~~part~~
17 *portion* of the retirement allowance computed under the
18 law in effect on June 30, 1972, whenever they retire in the
19 future.

20 *SEC. 233. Section 24300 of the Education Code is*
21 *amended to read:*

22 24300. (a) Any member prior to the effective date of
23 the member's retirement may elect an option that would
24 provide an actuarially modified retirement allowance
25 payable throughout the life of the member and his or her
26 option beneficiary as follows:

27 (1) Option 2. The modified retirement allowance
28 shall be paid to the ~~retirant~~ *retired member* and upon the
29 ~~retirant's retired member's~~ death, an allowance equal to
30 the modified amount the ~~retirant~~ *retired member* was
31 receiving shall be paid to the option beneficiary.

32 (2) Option 3. The modified retirement allowance
33 shall be paid to the ~~retirant~~ *retired member* and upon the
34 ~~retirant's retired member's~~ death, an allowance equal to
35 one-half of the modified amount the ~~retirant~~ *retired*
36 *member* was receiving shall be paid to the option
37 beneficiary.

38 (3) Option 4. The modified retirement allowance
39 shall be paid to the ~~retirant~~ *retired member* as long as
40 both the ~~retirant~~ *retired member* and the option

beneficiary are living. Upon the death of either the ~~retirant~~ *retired member* or the option beneficiary, an allowance equal to two-thirds of the modified amount that the ~~retirant~~ *retired member* was receiving shall be paid to the surviving ~~retirant~~ *retired member* or the surviving option beneficiary.

(4) Option 5. The modified retirement allowance shall be paid to the ~~retirant~~ *retired member* as long as both the ~~retirant~~ *retired member* and the option beneficiary are living. Upon the death of either the ~~retirant~~ *retired member* or the option beneficiary, an allowance equal to one-half of the modified amount that the ~~retirant~~ *retired member* was receiving shall be paid to the surviving ~~retirant~~ *retired member* or surviving option beneficiary.

(5) Option 6. The modified retirement allowance shall be paid to the ~~retirant~~ *retired member* and upon the ~~retirant's~~ *retired member's* death, an allowance equal to the modified amount the ~~retirant~~ *retired member* was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the ~~retirant~~ *retired member*, the retirement allowance without modification for the option shall be payable to the ~~retirant~~ *retired member*.

(6) Option 7. The modified retirement allowance shall be paid to the ~~retirant~~ *retired member* and upon the ~~retirant's~~ *retired member's* death, an allowance equal to one-half of the modified amount the ~~retirant~~ *retired member* was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the ~~retirant~~ *retired member*, the retirement allowance without modification for the option shall be payable to the ~~retirant~~ *retired member*.

(b) The option beneficiary, for purposes of this section, shall have been designated by the ~~retirant~~ *by written designation member on a form prescribed by the system and* duly executed and filed with the system at the time of the member's retirement.

1 (c) A member may revoke or change ~~his or her~~ an
2 election of an option at any time prior to the effective
3 date of the member's retirement.

4 *SEC. 234. Section 24301 of the Education Code is*
5 *amended to read:*

6 24301. (a) ~~Any~~ A member who has filed an
7 application for a disability retirement pursuant to
8 Chapter 26 (commencing with Section 24100) may elect,
9 as provided in Section 24300 to receive an actuarially
10 modified disability retirement allowance. After receipt of
11 a disability retirement application from a member, the
12 board shall mail an acknowledgment notice to the
13 member. A 30-day period shall commence with the
14 mailing of the ~~notice~~ *acknowledgement*, during which
15 time the member may change the option election made
16 on the disability retirement application.

17 (b) The option shall ~~be~~ *become* effective on the
18 effective date of the disability retirement allowance. The
19 modification of the disability retirement allowance under
20 the option elected shall be based on the ages of the
21 ~~disability retiree and the named~~ *retired member and the*
22 *designated* option beneficiary as of the effective date of
23 the disability retirement. The modification shall be
24 applicable only to the disability retirement allowance
25 payable pursuant to subdivision (a) of Section 24106.

26 (c) The elected option may not be revoked or changed
27 after the later of the effective date of the disability
28 retirement allowance or 30 days after the mailing of the
29 acknowledgment notice pursuant to this section.

30 (d) If a member dies prior to electing an unmodified
31 allowance or an option, the death benefits shall be
32 payable under Chapter 23 (commencing with Section
33 23850), regardless of whether the disability retirement
34 application is or would have been approved.

35 *SEC. 235. Section 24302 of the Education Code is*
36 *amended to read:*

37 24302. Upon ~~reinstatement from service retirement~~
38 *termination of a service retirement allowance* pursuant
39 to Section 24208, any option elected pursuant to Section
40 24300 and in effect at the time of reinstatement shall be

1 considered to be a preretirement election of an option
2 elected as of the effective date of that retirement and
3 shall be subject to the same provisions as an option elected
4 under Section 24307.

5 *SEC. 236. Section 24303 of the Education Code is*
6 *amended to read:*

7 ~~24303. Reinstatement from service retirement~~
8 *Termination of the service retirement allowance*
9 pursuant to Section 24208 shall not cancel an option
10 elected under the provisions of Section 24300 or 24307.
11 The option shall remain in effect unchanged and shall be
12 reapplied to the allowance payable upon the subsequent
13 service retirement.

14 *SEC. 237. Section 24304 of the Education Code is*
15 *amended to read:*

16 ~~24304. Upon reinstatement termination of a disability~~
17 *retirement allowance pursuant to Section 24117 of a*
18 ~~member retired for disability~~, any option elected at the
19 time of retirement pursuant to Section 24301 shall be
20 ~~voided~~ void as of the effective date of the reinstatement.
21 The preretirement election of option subsequent to
22 termination of the allowance pursuant to Section 24117 is
23 *shall be* subject to the following:

24 (a) A member may not make a preretirement election
25 of option pursuant to Section 24307 prior to becoming
26 qualified to make application for service retirement
27 under Section 24201 or Section 24203.

28 (b) ~~Any~~ A member who was receiving an unmodified
29 disability retirement allowance prior to termination of
30 the allowance may not make a preretirement election of
31 option earlier than six months following the date on
32 which the disability retirement allowance was
33 terminated pursuant to Section 24117.

34 (c) ~~Any~~ A member who has elected an option
35 pursuant to Section 24301, and is otherwise eligible to
36 make a preretirement election of an option, may make
37 the election anytime during the six months following the
38 date on which the disability retirement allowance was
39 terminated pursuant to Section 24117. The member shall
40 elect the same option and ~~retain~~ *designate* the same

1 option beneficiary as ~~made~~ *designated* under Section
2 24301 when making the election during the six-month
3 period following the date the disability retirement
4 allowance was terminated.

5 ~~SEC. 95. Section 44922 of the Education Code is~~
6 ~~amended to read:~~

7 ~~44922. Notwithstanding any other provision, the~~
8 ~~governing board of a school district or a county~~
9 ~~superintendent of schools may establish regulations that~~
10 ~~allow their certificated employees to reduce their~~
11 ~~workload from full time to part time duties.~~

12 ~~The regulations shall include, but shall not be limited~~
13 ~~to, the following, if the employees wish to reduce their~~
14 ~~workload and maintain retirement benefits pursuant to~~
15 ~~Section 22724 of this code or Section 20900 of the~~
16 ~~Government Code:~~

17 ~~(a) The employee shall have reached the age of 55~~
18 ~~prior to reduction in workload.~~

19 ~~(b) The employee shall have been employed full time~~
20 ~~in a position requiring certification for at least 10 years of~~
21 ~~which the immediately preceding five years were~~
22 ~~full time employment.~~

23 ~~(c) During the period immediately preceding a~~
24 ~~request for a reduction in workload, the employee shall~~
25 ~~have been employed full time in a position requiring~~
26 ~~certification for a total of at least five years without a~~
27 ~~break in service. For purposes of this subdivision,~~
28 ~~sabbaticals and other approved leaves of absence shall not~~
29 ~~constitute a break in service. Time spent on a sabbatical~~
30 ~~or other approved leave of absence shall not be used in~~
31 ~~computing the five-year full-time service requirement~~
32 ~~prescribed by this subdivision.~~

33 ~~(d) The option of part time employment shall be~~
34 ~~exercised at the request of the employee and can be~~
35 ~~revoked only with the mutual consent of the employer~~
36 ~~and the employee.~~

37 ~~(e) The employee shall be paid a salary which is the~~
38 ~~pro rata share of the salary he or she would be earning had~~
39 ~~he or she not elected to exercise the option of part-time~~
40 ~~employment but shall retain all other rights and benefits~~

~~1 for which he or she makes the payments that would be
2 required if he or she remained in full-time employment.~~

~~3 The employee shall receive health benefits as provided
4 in Section 53201 of the Government Code in the same
5 manner as a full-time employee.~~

~~6 (f) The minimum part-time employment shall be the
7 equivalent of one-half of the number of days of service
8 required by the employee's contract of employment
9 during his or her final year of service in a full-time
10 position.~~

~~11 (g) This option is limited in prekindergarten through
12 grade 12 to certificated employees who do not hold
13 positions with salaries above that of a school principal.~~

~~14 (h) The period of this part-time employment shall not
15 exceed five years for employees subject to Section 20900
16 of the Government Code or 10 years for employees
17 subject to Section 22713.~~

~~18 (i) The period of part-time employment of employees
19 subject to Section 20900 of the Government Code shall
20 not extend beyond the end of the school year. This
21 subdivision shall not apply to any employee subject to
22 Section 22713.~~

~~23 SEC. 96. Section 87483 of the Education Code is
24 amended to read:~~

~~25 87483. Notwithstanding any other provision, the
26 governing board of a community college district may
27 establish regulations that allow academic employees to
28 reduce their workload from full-time to part-time duties.
29 The regulations shall include, but shall not be limited to,
30 the following if the employees wish to reduce their
31 workload and maintain retirement benefits pursuant to
32 Section 22713 of this code or Section 20900 of the
33 Government Code:~~

~~34 (a) The employee shall have reached the age of 55
35 prior to reduction in workload.~~

~~36 (b) The employee shall have been employed full-time
37 in an academic position or a position requiring
38 certification qualifications, or both, for at least 10 years of
39 which the immediately preceding five years were
40 full-time employment.~~

1 ~~(c) During the period immediately preceding a~~
2 ~~request for a reduction in workload, the employee shall~~
3 ~~have been employed full time in an academic position or~~
4 ~~a position requiring certification qualifications, or both,~~
5 ~~for a total of at least five years without a break in service.~~
6 ~~For purposes of this subdivision, sabbaticals and other~~
7 ~~approved leaves of absence shall not constitute a break in~~
8 ~~service. Time spent on a sabbatical or other approved~~
9 ~~leave of absence shall not be used in computing the~~
10 ~~five-year full-time service requirement prescribed by this~~
11 ~~subdivision.~~

12 ~~(d) The option of part-time employment shall be~~
13 ~~exercised at the request of the employee and can be~~
14 ~~revoked only with the mutual consent of the employer~~
15 ~~and the employee.~~

16 ~~(e) The employee shall be paid a salary which is the~~
17 ~~pro rata share of the salary he or she would be earning had~~
18 ~~he or she not elected to exercise the option of part-time~~
19 ~~employment but shall retain all other rights and benefits~~
20 ~~for which he or she makes the payments that would be~~
21 ~~required if he or she remained in full-time employment.~~

22 ~~The employee shall receive health benefits as provided~~
23 ~~in Section 53201 of the Government Code in the same~~
24 ~~manner as a full-time employee.~~

25 ~~(f) The minimum part-time employment shall be the~~
26 ~~equivalent of one-half of the number of days of service~~
27 ~~required by the employee's contract of employment~~
28 ~~during his or her final year of service in a full-time~~
29 ~~position.~~

30 ~~(g) The period of this part-time employment shall not~~
31 ~~exceed five years for employees subject to Section 20900~~
32 ~~of the Government Code or 10 years for employees~~
33 ~~subject to Section 22713.~~

34 ~~(h) The period of part-time employment of employees~~
35 ~~subject to Section 20900 of the Government Code shall~~
36 ~~not extend beyond the end of the college year. This~~
37 ~~subdivision shall not apply to any employee subject to~~
38 ~~Section 22713.~~

39 ~~SEC. 97. Section 87789 of the Education Code is~~
40 ~~amended to read:~~

~~87789. The governing board of a community college district may grant a leave of absence to any academic employee who has applied for disability allowance, not to exceed 30 days beyond final determination of the employee's eligibility for disability benefits by the State Teachers' Retirement System. If the employee is determined to be eligible for the disability benefits by the system, the leave shall be extended for the term of disability, but not more than 39 months.~~

~~Governing boards of community college districts shall classify as temporary employees those persons employed to fill vacancies caused by the absence of academic employees who are classified as permanent and are receiving a disability or insurance allowance or benefit from the system or from a group insurance plan for which the employer is paying the cost or deducting the cost from the employees' salaries.~~

~~For purposes of this section, the term of employment of the temporary employee shall be equal to the number of days of absence of the employee receiving the disability benefits.~~

~~If the term of employment extends beyond this period, the employee shall be credited for all days served as a probationary employee.~~

~~SEC. 98. Section 20900 of the Government Code is amended to read:~~

~~20900. Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976, shall, for the period of part-time employment, receive the credit the member would receive if he or she was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits the member is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis, if the member and his or her employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of an employee's workload under this section, the district personnel responsible for the administration~~

1 of this program, in conjunction with the administrative
2 staff of the State Teachers' Retirement System and this
3 system, shall verify the eligibility of the applicant for the
4 reduced workload program. This section shall be
5 applicable only to members who are academic employees
6 of the California State University or who are certificated
7 employees of school districts and who have met the
8 criteria provided in Sections 44922 and 87483 of the
9 Education Code or Section 89516 of the Education Code
10 and is limited to a period of five years of part-time status.
11 The employer shall maintain the necessary records to
12 separately identify each employee receiving credit
13 pursuant to this section.

14 *SEC. 238. Section 24305 of the Education Code is*
15 *amended to read:*

16 24305. (a) An option elected under Section 24300
17 may be canceled by a ~~retirant~~ *retired member* if the
18 option beneficiary is the ~~retirant's~~ *retired member's*
19 spouse or former spouse and a final decree of dissolution
20 of marriage or a judgment of nullity has been entered or
21 an order of separate maintenance has been made on or
22 after January 1, 1978, by a court of competent jurisdiction.
23 A ~~retirant~~ *retired member* may cancel the option before
24 or after issuance of the first retirement allowance
25 payment.

26 (b) The ~~retirant~~ *retired member* shall notify the board
27 in writing of ~~his or her~~ cancellation of the option, ~~and~~
28 ~~notification~~. *Notification* shall not be earlier than the
29 effective date of the decree, judgment, or order:
30 ~~Notification~~ *and* shall include a certified copy of the final
31 decree of dissolution, or judgment of nullity, or an order
32 of separate maintenance, and any property settlement
33 agreement.

34 (c) Upon notification to the board, the ~~retirant~~ *retired*
35 *member* may elect (1) to receive the unmodified
36 retirement allowance from the date of receipt of the
37 notification; or (2) a new joint and survivor option under
38 Section 24300 and may ~~name~~ *designate* a new option
39 beneficiary. Modification of the retirement allowance
40 ~~under~~ *because of* the newly elected option *or newly*

1 *designated beneficiary* shall be based on the ages of the
2 ~~retirant~~ *retired member* and the new option beneficiary
3 as of the effective date of the new option. The election of
4 a new joint and survivor option *or the designation of a*
5 *new option beneficiary* shall be consistent with the final
6 decree of dissolution, judgment of nullity, order of
7 separate maintenance, or property settlement
8 agreement, and shall not result in any additional liability
9 to the Teachers' Retirement Fund. The effective date of
10 the ~~unmodified allowance or the new option change~~ shall
11 be the date notification is received by the board.

12 SEC. 239. Section 24306 of the Education Code is
13 amended to read:

14 24306. (a) (1) ~~A—retirant~~ *If the option beneficiary*
15 *designated at the time the option was elected*
16 *predeceases the retired member, a retired member who*
17 *elected Option 2, Option 3, Option 4, or Option 5 may*
18 ~~name a~~ *designate either or both of the following:*

19 (A) A new option ~~beneficiary and select a second~~
20 *beneficiary.*

21 (B) A different joint and survivor option described in
22 Section 24300 ~~if the option beneficiary designated at the~~
23 ~~time the option was elected predeceases the retirant.~~

24 (2) The effective date of the ~~election of the new joint~~
25 ~~and survivor option change~~ shall be one year following
26 the date notification is received by the board, provided
27 both the ~~retirant~~ *retired member* and the designated
28 option beneficiary are then living. ~~The notification~~
29 *Notification* shall include proof of death of the
30 predeceased beneficiary and a properly executed form
31 for the ~~new joint and survivor option change.~~

32 (3) The selection of the new joint and survivor option
33 under this subdivision and Section 24300 is subject to an
34 actuarial modification in the amount of the retirement
35 allowance. However, a ~~retirant~~ *retired member* may not
36 elect a joint and survivor option that would result in any
37 additional liability to the fund.

38 (b) If the option beneficiary designated in the election
39 of an Option 6 or Option 7 pursuant to Section 24307 dies
40 after the member's retirement, the retirement allowance

without modification for the option shall be payable to the ~~retirant~~ *retired member* upon notification to the board and shall commence to accrue to the ~~retirant~~ *retired member* as of the day following the date of the death of the option beneficiary. Notification to the board shall include proof of death of the ~~predeceased~~ beneficiary.

SEC. 240. Section 24306.5 of the Education Code is amended to read:

24306.5. (a) ~~Any service retirant who retired~~ A *member who retired for service* under Option 2 or Option 3 with an effective date prior to January 1, 1991, may elect to change Option 2 to Option 6 or Option 3 to Option 7 under all of the following conditions:

(1) The election is made during the six-month period commencing July 1, 1994, and ending December 31, 1994.

(2) The same beneficiary under Option 2 or Option 3 is named as beneficiary under Option 6 or Option 7.

(3) The change in options is consistent with Sections 22453 and 24305.

(4) The option beneficiary is not afflicted with any known terminal illness and the ~~service retirant~~ *retired member* shall state under penalty of perjury that to the best of his or her knowledge the option beneficiary is not afflicted with any known terminal illness.

(5) The option beneficiary has not predeceased the ~~retirant~~ *retired member* as of the effective date of the change in options.

(b) The change in options shall be effective on the date the election is signed, provided that the election is received ~~in the office of the system~~ *at the system's office* in Sacramento within 30 days after the date of the signature.

(c) If an election to change options is made pursuant to this section, the modified allowance shall be reduced in a manner determined by the board to ensure that no additional liability shall be incurred by the ~~system~~ *plan* pursuant to this section.

SEC. 241. Section 24307 of the Education Code is amended to read:

1 24307. (a) ~~Any member who has qualified to make~~
2 ~~application~~ *A member who qualifies to apply* for
3 retirement under Section 24201 or Section 24203 may
4 make a preretirement election of an option, as provided
5 in Section 24300 without right of revocation or change
6 after the effective date of ~~his or her~~ retirement, except as
7 provided in this part. The preretirement election of an
8 option shall become effective on the date the election is
9 signed, providing the election is received in the system's
10 office in Sacramento within 30 days after the date of
11 signature.

12 (b) Upon the member's death, prior to the effective
13 date of retirement, the beneficiary who was designated
14 under the option elected and who survives shall receive
15 an allowance calculated under the option, upon the
16 assumption that the member retired for service on the
17 date of death. The payment of the allowance to the option
18 beneficiary shall be in lieu of the family allowance
19 provided in Section 23804, the payment provided in
20 paragraph (1) of subdivision (a) of Section 23802, the
21 survivor benefit allowance provided in Section 23854, and
22 the payment provided in subdivisions (a) and (b) of
23 Section 23852, except that if the beneficiary dies before all
24 of the member's accumulated retirement contributions
25 are paid, the balance, if any, shall be paid to the estate of
26 the person last receiving or entitled to receive the
27 allowance. The accumulated annuity deposit
28 contributions and the death payment provided in
29 Sections 23801 and 23851, shall be paid to the beneficiary
30 in a lump sum.

31 (c) If the member subsequently retires for service,
32 and the elected option has not been canceled pursuant to
33 Section 24309, a modified service retirement allowance
34 computed under Section 24300 and the option elected
35 shall be paid.

36 (d) The amount of the service retirement allowance
37 prior to applying the option factor shall be calculated as
38 of the earlier of the member's age at death before
39 retirement, or age on the last day of the month in which
40 the member requested service retirement be effective.

1 The modification of the service retirement allowance
2 under the option elected shall be based on the ages of the
3 member and the beneficiary designated under the
4 option, at the date the election was signed.

5 (e) A member who ~~reinstates—~~*from terminates the*
6 service retirement *allowance* pursuant to Section 24208
7 shall not be eligible to file a preretirement election of an
8 option until one calendar year elapses from the date of
9 ~~reinstatement~~ *the allowance is terminated.*

10 (f) The system shall inform members who are
11 qualified to make application for a preretirement
12 election of an option, through the annual statements of
13 account, that the option is available.

14 *SEC. 242. Section 24309 of the Education Code is*
15 *amended to read:*

16 24309. (a) A member may cancel the election of an
17 option made pursuant to Section 24307, providing written
18 cancellation is received by the board on or before the day
19 preceding the effective date of retirement or during the
20 period between ~~reinstatement~~ *termination of the*
21 *retirement allowance* pursuant to Section 24208 or 24117
22 and the effective date of the subsequent retirement.
23 Regardless of how the member elects to receive his or her
24 retirement allowance, that allowance shall be reduced by
25 an amount determined by the board to be the actuarial
26 equivalent of the coverage the member received as a
27 result of the preretirement election and that does not
28 result in any adverse funding to the ~~system~~ *plan.*

29 (b) If the option beneficiary designated in the
30 preretirement election of an option pursuant to Section
31 24307 dies prior to the member's retirement, the
32 preretirement election shall be canceled as of the day
33 following the date of death and the member's subsequent
34 retirement allowance shall be subject to the allowance
35 reduction prescribed in this section.

36 *SEC. 243. Section 24310 of the Education Code is*
37 *amended to read:*

38 24310. If a member cancels an election under Section
39 24309, the member may again elect an option under
40 Section 24307. If the member elects to change an option

1 during any year, the reduction for that year shall be that
2 for the option to which the greater reduction under
3 Section 24309 *as it read on December 31, 1995*, is
4 applicable.

5 *SEC. 244. Section 24400 of the Education Code is*
6 *amended to read:*

7 24400. The Legislature recognizes that inflation
8 erodes the purchasing power of benefits paid under the
9 ~~State Teachers' Retirement System~~ plan. It is the intent
10 of the Legislature to understand the degree of erosion of
11 these benefits. The board shall report to the Governor
12 and Legislature no later than April 1 of each year on the
13 extent to which inflation has eroded the purchasing
14 power of benefits *provided* under ~~the State Teachers'~~
15 ~~Retirement System~~ *the plan*. The board shall indicate the
16 amount of supplementary increases in retirement
17 allowances required to preserve the purchasing power of
18 benefits ~~provided by the system under the plan~~. The
19 board shall also determine and report on the increases.

20 *SEC. 246. Section 24401 of the Education Code is*
21 *amended to read:*

22 24401. This chapter does not give any ~~retirant~~ retired
23 member, or ~~his or her~~ a retired member's successors in
24 interest; or ~~his or her~~ beneficiary, any claim against the
25 board, system, or plan for any increase in any allowance
26 paid or payable prior to July 1, 1972.

27 *SEC. 247. Section 24405 of the Education Code is*
28 *amended to read:*

29 24405. The first three hundred dollars (\$300) of the
30 monthly allowances payable ~~by the system to retirants,~~
31 ~~disabillants~~ *to retired members, disabled members, and*
32 beneficiaries are increased as of July 1, 1976, as follows if
33 the member had 20 or more years of credited service:

34 (a) For those with effective dates prior to July 1, 1972,
35 9 percent.

36 (b) For those with effective dates from July 1, 1972, to
37 June 30, 1973, 6 percent.

38 (c) For those with effective dates from July 1, 1973, to
39 June 30, 1974, 3 percent.

SEC. 248. Section 24406 of the Education Code is amended to read:

24406. The first three hundred dollars (\$300) of the monthly allowances payable ~~by the system to retirants, disabilitants~~ to retired members, disabled members, and beneficiaries are increased as of July 1, 1978, for those members receiving allowances on July 1, 1978, if the member had less than 20 years of credited service, as follows:

(a) For those with effective dates prior to July 1, 1972, 9 percent.

(b) For those with effective dates from July 1, 1972, to June 30, 1973, 6 percent.

(c) For those with effective dates from July 1, 1973, to June 30, 1974, 3 percent.

SEC. 249. Section 24407 of the Education Code is amended to read:

24407. (a) The monthly allowances payable ~~by the system to retirants, disabilitants~~ to retired members, disabled members, and beneficiaries are increased as of January 1, 1980, for those persons receiving allowances with respect to members who retired or died prior to June 30, 1973, to the amount that results when the initial allowance that was received by those members is multiplied by the percentage set forth opposite the year of retirement or death in the following schedule:

Period During Which	Percentage
Retirement or Death Occurred	
On or before June 30, 1958	180.4
12 months ending June 30, 1959	175.8
12 months ending June 30, 1960	172.2
12 months ending June 30, 1961	169.8
12 months ending June 30, 1962	167.8
12 months ending June 30, 1963	165.5
12 months ending June 30, 1964	163.0
12 months ending June 30, 1965	159.8
12 months ending June 30, 1966	156.7
12 months ending June 30, 1967	153.1
12 months ending June 30, 1968	147.5

1	12 months ending June 30, 1969	141.6
2	12 months ending June 30, 1970	134.5
3	12 months ending June 30, 1971	128.7
4	12 months ending June 30, 1972	124.5
5	12 months ending June 30, 1973	119.6

6

7 (b) For those ~~retirants, —disabilitants~~ *retired members,*
8 *disabled members,* and beneficiaries receiving an
9 allowance with an effective date prior to July 1, 1965, the
10 initial allowance, for purposes of this section, shall be
11 deemed to be the allowance payable on July 1, 1965.
12 However, for purposes of determining the allowance
13 payable under this section, the percentage corresponding
14 to the actual year of retirement shall be applied.

15 *SEC. 250. Section 24408 of the Education Code is*
16 *amended to read:*

17 24408. (a) The minimum unmodified allowance,
18 exclusive of annuities from accumulated annuity deposit
19 and tax-sheltered contributions, of a person retired prior
20 to January 1, 1981, shall be an amount equal to at least
21 sixteen dollars (\$16) per month multiplied by the years
22 of credited service. This guaranteed amount shall be
23 increased as of October 1, 1980, and shall be reduced by
24 the amount of an unmodified allowance payable from a
25 local system based on service credited ~~by this system~~
26 *under this part.* If the retirement was effective at less than
27 age 60 years, this allowance shall be reduced by one-half
28 of 1 percent for each full month or fraction of a month that
29 would have elapsed until the ~~retirant~~ *retired member*
30 would have reached age 60 years. If the ~~retirant~~ *retired*
31 *member* elected to have ~~his—or—her~~ *the* allowance
32 modified under Option 2 or 3, the increase in the
33 ~~retirant's~~ *retired member's* allowance shall be modified
34 under the option selected.

35 (b) The board may make lump sum payments for
36 increases between October 1, 1980 and January 1, 1981.

37 *SEC. 251. Section 24409 of the Education Code is*
38 *amended to read:*

39 24409. The minimum unmodified allowance,
40 exclusive of annuities from accumulated annuity deposit

1 and tax-sheltered contributions, of (a) a person who
 2 retired on or before December 31, 1981, (b) the option
 3 beneficiary of a person who retired on or before
 4 December 31, 1981, or (c) a person receiving a monthly
 5 allowance in lieu of the death benefit payable on account
 6 of the death of a member whose death occurred prior to
 7 July 1, 1972, shall be an amount equal to at least eighteen
 8 dollars (\$18) per month multiplied by the years of
 9 credited service. This guaranteed amount is increased as
 10 of September 1, 1981, and is applicable to allowances paid
 11 on and after September 1, 1981. If the retirement was
 12 effective at less than age 60 years, this allowance shall be
 13 reduced by one-quarter of 1 percent for each full month
 14 or fraction of a month that would have elapsed until the
 15 ~~retirant~~ *retired member* reached age 55 years, and the
 16 allowance shall be reduced by one-half of 1 percent for
 17 each full month or fraction of a month between age 55
 18 and age 60 years. If the ~~retirant~~ *retired member* elected
 19 to have his or her allowance modified under Option 2 or
 20 3, the increase in the ~~retirant's~~ *retired member's*
 21 allowance shall be modified under the option selected.

22 *SEC. 252. Section 24410 of the Education Code is*
 23 *amended to read:*

24 24410. (a) If ~~the~~ projected final compensation is used
 25 to calculate the service retirement allowance following
 26 the termination of the disability allowance or if the
 27 disability allowance is continued as the ~~smaller~~ *lesser* of
 28 the two allowance calculations under Section ~~24213~~ *or*
 29 *24212 or 24213*, then the original disability allowance
 30 effective date shall be retained as the base date for
 31 purposes of determining postretirement benefit
 32 increases.

33 (b) This section shall be applicable for determining
 34 the base date for applicable postretirement increases
 35 made on or after January 1, 1982.

36 (c) This section shall only apply to service retirements
 37 effective the day after the termination date of the
 38 disability allowance.

39 *SEC. 253. Section 24411 of the Education Code is*
 40 *amended to read:*

1 24411. (a) (1) Annual cost-of-living adjustments for
2 ~~retirants,—disabilitants~~ *retired members, disabled*
3 *members*, and beneficiaries in excess of the 2-percent
4 adjustment authorized by Section ~~22139~~ 22140 may be
5 included as a General Fund appropriation in the annual
6 Budget Act. In the annual budget submitted to the
7 Legislature, the Governor shall include a budget item
8 equal to 5 percent of the average annualized statewide
9 increase in payroll for certificated personnel over the
10 three previous school years among school districts, county
11 offices of education, and community college districts.

12 (2) The amount submitted in the annual Budget Act
13 pursuant to this section shall be considered as part of the
14 overall budget allocations to the public schools and
15 community colleges.

16 (b) The annual appropriation shall be made to the
17 system on July 1, and shall be placed in a segregated
18 account called the Retirees' Purchasing Power
19 Protection Account. The proceeds of that account are
20 continuously appropriated and shall be distributed
21 annually in quarterly payments commencing on
22 September 1 to ~~retirants,—disabilitants~~ *retired members,*
23 *disabled members*, and beneficiaries as follows:

24 (1) The proceeds shall be allocated among those
25 ~~retirants,—disabilitants~~ *retired members, disabled*
26 *members*, and beneficiaries whose allowances, after
27 applying the 2-percent adjustment authorized by Section
28 ~~22139~~ 22140, have the lowest purchasing power
29 percentage, based on the amount that would be paid had
30 the original allowance been increased by the increases in
31 the index then being used by the Department of Finance
32 to measure changes in the cost of living, increasing those
33 allowances to a common minimum purchasing power
34 level. In any year in which the purchasing power of the
35 allowances of all ~~retirants,—disabilitants~~ *retired members,*
36 *disabled members*, and beneficiaries equals not less than
37 75 percent and additional funds remain from the
38 allocation authorized by this section, those funds shall be
39 allocated by the board to general accounts to reduce the
40 unfunded actuarial liability of the fund.

(2) The board may deduct from the annual appropriation an amount necessary for administrative expenses to implement this section.

(c) The board shall inform each recipient of benefits under subdivision (b) that the increases are not cumulative, are not part of the base ~~retirement~~ allowance, and shall be available only as appropriated annually in the ~~annual~~ Budget Act.

(d) The adjustments authorized by this section shall not be included in the base allowance for purposes of calculating the 2-percent adjustment authorized by Section ~~22139~~ 22140.

(e) It is the ultimate intent and purpose of the Legislature in amending this section by Chapters 323 and 780 of the Statutes of 1983, to achieve a common minimum purchasing power level equal to 75 percent of the purchasing power of the original ~~retirement~~ allowance. It is the present intent of the Legislature that until adequate funds are available to fulfill the ultimate intent, those persons whose ~~retirement~~ allowances have been most impacted by inflation shall be accorded first priority in receiving, pursuant to this section, supplemental cost-of-living adjustments from the Retirees' Purchasing Power Protection Account.

(f) This section shall not be operative in any fiscal year during which, as determined by the board, distributions provided for by Section 24415 are being made.

SEC. 254. Section 24412 of the Education Code is amended to read:

24412. (a) The annual revenues deposited to the Teachers' Retirement Fund pursuant to Section 6217.5 of the Public Resources Code are continuously appropriated without regard to fiscal year for the purposes of this section and shall be distributed annually in quarterly supplemental payments commencing on September 1 of each year to ~~retirants,---disabilitants~~ *retired members, disabled members,* and beneficiaries. The amount available for distribution in any year shall be the income for that year from the sale or use of school lands and lieu lands, as estimated by the State Lands Commission prior

1 to the beginning of the fiscal year, adjusted by the
2 difference between the estimated and actual income for
3 the preceding fiscal year. The board shall deduct from the
4 revenues an amount necessary for administrative
5 expenses to implement this section.

6 (b) The net revenues to be distributed shall be
7 allocated among those ~~retirants, disabilitants~~ *retired*
8 *members, disabled members*, and beneficiaries whose
9 allowances, after sequentially applying the annual
10 improvement factor as defined in Section ~~22139~~ *22140* and
11 the annual supplemental payment as defined in Section
12 24411, if any, are below 75 percent of original purchasing
13 power. The purchasing power calculation for each
14 individual allowance shall be based on the change in the
15 All Urban California Consumer Price Index between
16 June of the calendar year of retirement and June of the
17 fiscal year preceding the fiscal year of the distribution.
18 The allocation shall provide a pro rata share of the amount
19 needed to restore the allowance payable, after sequential
20 application of the current year annual improvement
21 factor and the supplemental payment under Section
22 24411, to 75 percent of original purchasing power.

23 (c) The allowance increase shall not be applicable to
24 annuities payable from the accumulated annuity deposit
25 contributions or the accumulated tax-sheltered annuity
26 contributions.

27 (d) In any year that the net revenues from school lands
28 and lieu lands is greater than that needed to adjust the
29 allowances of all ~~retirants, disabilitants~~ *retired members,*
30 *disabled members*, and beneficiaries to 75 percent of
31 original purchasing power, the net revenues in excess of
32 that needed for distribution shall be used by the board to
33 reduce the unfunded actuarial obligation of the fund.

34 (e) The board shall inform each recipient of
35 supplemental payments under this section that the
36 increases are not cumulative and are not part of the base
37 ~~retirement~~ allowance.

38 SEC. 255. Section 24415 of the Education Code is
39 amended to read:

1 24415. (a) The proceeds of the Supplemental Benefit
2 Maintenance Account shall, except as otherwise provided
3 by Section 24414, be distributed annually in quarterly
4 supplemental payments commencing on September 1,
5 1990, to ~~retirants, disabilitants~~ *retired members, disabled*
6 *members*, and beneficiaries. The amount available for
7 distribution in any fiscal year shall not exceed the amount
8 necessary to restore purchasing power up to 68.2 percent
9 of the purchasing power of the initial monthly allowance
10 after the application of all allowance increases authorized
11 by this part, including those specified in Section 24412.

12 (b) The net revenues to be distributed shall be
13 allocated among those ~~retirants, disabilitants~~ *retired*
14 *members, disabled members*, and beneficiaries whose
15 allowances, after sequentially applying the annual
16 improvement factor as defined in Sections ~~22139~~ *22140*
17 and ~~22140~~ *22141*, and the annual supplemental payment
18 as defined in Section 24412, have the lowest purchasing
19 power percentage. The purchasing power calculation for
20 each individual shall be based on the change in the All
21 Urban California Consumer Price Index between June of
22 the calendar year of retirement and June of the fiscal year
23 preceding the fiscal year of distribution. In any year in
24 which the purchasing power of the allowances of all
25 ~~retirants, disabilitants~~ *retired members, disabled*
26 *members*, and beneficiaries equals not less than 68.2
27 percent and additional funds remain from the allocation
28 authorized by this section, those funds shall remain in the
29 Supplemental Benefit Maintenance Account for
30 allocation in future years.

31 (c) The allowance increase shall not be applicable to
32 annuities payable from the accumulated annuity deposit
33 contributions or the accumulated tax-sheltered annuity
34 contributions.

35 (d) The benefits provided by subdivision (b) are not
36 cumulative, not part of the base ~~retirement~~ allowance,
37 and will be payable only to the extent that funds are
38 available from the Supplemental Benefit Maintenance
39 Account. The board shall inform each recipient of the
40 contents of this subdivision.

(e) The adjustments authorized by this section are not vested and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections ~~22139~~ 22140 and ~~22140~~ 22141.

SEC. 256. Section 24500 of the Education Code is amended to read:

24500. Notwithstanding Sections 11042 and 11043 of the Government Code, if a disability retirement allowance, disability allowance, family allowance, or survivor benefit allowance is payable under this part due to the injury to or death of a member and the injury or death is the proximate consequence of the act of a third person or entity, other than the member's employer, the board may, upon adoption of a resolution, recover from that person or entity on behalf of the ~~system plan~~, an amount equal to the actuarial equivalent of benefits paid ~~by the system under the plan~~ because of the injury to or death of the member less any amounts the system may be obligated to pay *under the plan* without regard to the actions of the third party. This chapter shall be deemed to create a right of subrogation only to amounts paid as disability retirement allowances, disability allowances, family allowances, or survivor benefit allowances.

SEC. 257. Section 24501 of the Education Code is amended to read:

24501. The board may act on its own or contract with the State Compensation Insurance Fund or Attorney General for recovery on behalf of the ~~system plan~~ of any amounts recoverable from third persons under this chapter, Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, Section 11662 of the Insurance Code, or otherwise.

SEC. 258. Section 24504 of the Education Code is amended to read:

24504. Any amount recovered by way of subrogation by the board on behalf of the member, shall be applied first to the amount which the ~~system plan~~ paid or is obligated to pay including court costs, attorney fees, and expenses.

1 SEC. 259. Section 24505 of the Education Code is
2 amended to read:

3 24505. Actions brought by the board or its agent
4 under contract pursuant to this chapter shall be
5 commenced within three years after the liability of the
6 system to pay benefits *under the plan* is fixed. Liability of
7 the ~~system~~ *plan* is fixed at the time the board approves
8 the payment of benefits under ~~this part~~ *the plan*.

9 SEC. 260. Section 24603 of the Education Code is
10 amended to read:

11 24603. If any estimated allowances are more or less
12 than the correct amount due, the difference between the
13 correct amount and the estimated allowance shall be
14 adjusted in subsequent payments or the Controller may
15 state an account with the ~~retirant, disabilitant~~ *retired*
16 *member, disabled member*, or beneficiary, pursuant to
17 Section 12419 of the Government Code.

18 SEC. 261. Section 24604 of the Education Code is
19 amended to read:

20 24604. (a) A ~~retirant, disabilitant~~ *retired member,*
21 *disabled member*, or beneficiary shall specify whether
22 monthly benefit payments are to be disbursed by: (1)
23 direct deposit (electronic funds transfer); (2) direct mail
24 to a financial or other institution; or (3) mailing to a
25 payment address provided by the ~~retirant, disabilitant~~
26 *retired member, disabled member*, or beneficiary.

27 (b) A member or beneficiary to whom a lump-sum
28 payment or benefit is to be disbursed shall specify the
29 address to which the payment shall be mailed.

30 (c) (1) The board shall send a copy of the benefit
31 payment information to any ~~retirant, disabilitant~~ *retired*
32 *member, disabled member*, or beneficiary who has
33 payments transmitted directly by electronic funds
34 transfer or by mail to a financial institution, unless the
35 board has received a written request from that person not
36 to send a copy of the information.

37 (2) The board shall notify the ~~retirant, disabilitant~~
38 *retired member, disabled member*, or beneficiary, in the
39 monthly benefit payment notice, of ~~his or her~~ *the* right to

1 request that no copy of the benefit payment information
2 be mailed, pursuant to paragraph (1).

3 (d) A payment disbursed as specified by the member;
4 ~~retirant, disabilitant,~~ or beneficiary shall fully discharge
5 the board, ~~and the system,~~ *and plan* from any claim
6 resulting from actions taken under this section.

7 *SEC. 262. Section 24605 of the Education Code is*
8 *amended to read:*

9 24605. Upon receipt of proof satisfactory to the board,
10 that a warrant drawn in payment of a retirement
11 allowance or in payment of any other account due from
12 the ~~system~~ *plan*, has been lost or that payment
13 transmitted electronically cannot be credited to an
14 account, the Controller upon the request of the board
15 shall issue a replacement warrant in payment of the same
16 amount, without requiring a bond from the payee, and
17 any loss incurred in connection therewith shall be
18 charged against the fund from which the payment was
19 derived.

20 *SEC. 263. Section 24606 of the Education Code is*
21 *amended to read:*

22 24606. (a) Whenever any warrant drawn in payment
23 of contributions or accumulated contributions or benefits
24 under this ~~system~~ *plan* remains unclaimed or the legal
25 claimant cannot be found, the board shall redeposit the
26 proceeds of the warrant in the retirement fund, and shall
27 hold the proceeds for the legal claimant without further
28 accumulation of interest, and the redeposit shall not
29 operate to ~~reinstate~~ *establish* the membership of the
30 claimant in this ~~system~~ *plan*.

31 (b) Subdivision (a) shall apply to warrants drawn and
32 canceled by the Controller pursuant to Section 17070 of
33 the Government Code, except that upon notice of
34 cancellation, the proceeds revert to and become a part of
35 the retirement fund, and shall be applied to meet the
36 liabilities of the retirement fund.

37 (c) The board may at any time, after reversion of
38 proceeds as provided above to the retirement fund and
39 upon receipt of proper information satisfactory to it,

1 return from the retirement fund an amount equal to
2 those proceeds to the credit of the legal claimant.

3 *SEC. 264. Section 24607 of the Education Code is*
4 *amended to read:*

5 24607. Any warrant in an amount less than two
6 thousand dollars (\$2,000) paid by the system, for the
7 month in which a ~~retirant or disabilitant~~ *retired member*
8 *or disabled member* dies, shall not be invalidated by the
9 system, except upon the request of the beneficiary of the
10 ~~retirant or disabilitant~~ *retired member or disabled*
11 *member.*

12 *SEC. 265. Section 24608 of the Education Code is*
13 *amended to read:*

14 24608. (a) Persons entitled to receive allowances
15 under ~~this system~~ *the plan* may authorize deductions to
16 be made from those allowances, in accordance with
17 procedures established by the board.

18 (b) The board shall determine the additional cost
19 involved in making deductions under this section, and
20 may require the public agency, association, insurance
21 carrier, or unit thereof to pay the amount of the additional
22 cost to the board for deposit in the retirement fund.

23 *SEC. 266. Section 24609 of the Education Code is*
24 *amended to read:*

25 24609. Any ~~retirement~~ allowance payable to a ~~retirant~~
26 *retired member*, that has accrued and remains unpaid at
27 the time of his or her death, shall be paid to either of the
28 following:

29 (a) The beneficiary entitled to payment in accordance
30 with an optional settlement chosen by the member.

31 (b) The beneficiary entitled to receive the lump-sum
32 death benefit provided upon death of a ~~retirant~~ *retired*
33 *member* if the member has not chosen an optional
34 settlement.

35 *SEC. 267. Section 24610 of the Education Code is*
36 *amended to read:*

37 24610. Any disability allowance that has accrued and
38 remains unpaid to a ~~disabilitant~~ *disabled member* at the
39 time of death shall be paid to the person entitled to

1 receive a family allowance or, if none, to the beneficiary
2 entitled to receive the death payment.

3 *SEC. 268. Section 24611 of the Education Code is*
4 *amended to read:*

5 24611. Part 5 (commencing with Section 220) of
6 Division 2 of the Probate Code, when applicable, shall
7 govern the distribution of the proceeds of any death
8 benefit payable under ~~the system~~ *this part*. In applying
9 Part 5 (commencing with Section 220) of Division 2 of the
10 Probate Code with respect to proceeds payable to a
11 beneficiary, membership ~~in the system~~ shall be
12 considered as having the same status as an insurance
13 policy issued after December 31, 1984.

14 *SEC. 269. Section 24612 of the Education Code is*
15 *amended to read:*

16 24612. (a) If any person entitled to a benefit from the
17 ~~system plan~~ is a minor who has no guardian of his or her
18 estate, the benefit, not to exceed two thousand dollars
19 (\$2,000), may be paid to the person entitled to the
20 custody of the minor to hold for the minor, upon the
21 written statement, duly acknowledged and verified, of
22 the person that the total estate of the minor does not
23 exceed two thousand five hundred dollars (\$2,500) in
24 value.

25 (b) The payment shall constitute full discharge of any
26 and all liabilities of the board, ~~and system,~~ *and plan*.

27 (c) The person shall account to the minor for the
28 money when the minor reaches the age of majority.

29 (d) Notwithstanding any other provision of this
30 section, a natural parent or an adoptive parent having
31 custody of the minor shall not be required to establish a
32 guardianship for the purpose of collecting a survivor
33 benefit, family benefit, or death benefit.

34 *SEC. 270. Section 24613 of the Education Code is*
35 *amended to read:*

36 24613. (a) Payment pursuant to the board's
37 determination in good faith of the existence, identity, or
38 other facts relating to entitlement of persons constitutes
39 a complete discharge and release of the *board*, system,
40 *and plan* from liability for that payment.

1 (b) Notwithstanding Sections 751 and 1100 of the
2 Family Code relating to community property interests,
3 whenever payment or refund is made by this system to a
4 member, former member, or beneficiary of a member
5 pursuant to this part, the payment shall fully discharge
6 the *board, system, and plan* from all adverse claims
7 thereto unless, before payment is made, ~~the system has~~
8 ~~received at its office in Sacramento~~ a written notice of
9 adverse claim *is received at the system's office in*
10 *Sacramento.*

11 *SEC. 271. Section 24614 of the Education Code is*
12 *amended to read:*

13 24614. (a) This section shall only be applicable to a
14 district retirement salary plan in a unified district
15 presently having an average daily attendance of less than
16 200,000 pupils and which was discontinued by the
17 governing board of the district.

18 (b) The district shall continue to pay monthly to
19 teachers and other persons who were retired prior to the
20 date of the discontinuance an amount equal to the
21 amount by which the retirement allowance to which any
22 of the retired teachers or other persons were entitled
23 under the *district* plan exceeds the increase in the
24 teacher's or other person's retirement allowance under
25 ~~the State Teachers' Retirement System~~ *this part* resulting
26 from the discontinuance. The arrangement under which
27 those amounts are paid by the district shall not be
28 considered to be a local retirement system for the
29 purposes of this part, nor shall those amounts be taken
30 into account in the calculation of retirement allowances
31 under ~~the State Teachers' Retirement System~~ *this part.*

32 (c) The reserve fund created by the district from the
33 assets delivered to it by the discontinued district
34 retirement plan under subdivision (c) of former Section
35 14690 prior to its repeal is continued in existence and the
36 amounts payable under subdivision (b) of this section
37 shall be paid from that reserve fund.

38 *SEC. 272. Section 24615 of the Education Code is*
39 *amended to read:*

1 24615. If the board determines that contributions are
2 due the system from a ~~retirant, disabilitant~~ *retired*
3 *member, disabled member*, or a person who has died and
4 the person is unable to pay the amount due, the board
5 may withhold all or part of subsequent payments due the
6 ~~retirant, disabilitant~~ *retired member, disabled member*,
7 or survivor, until the amounts withheld equal the
8 contributions due plus regular interest to the date of
9 payment. Total contributions plus regular interest due
10 shall be recovered by the system within 18 months.

11 *SEC. 273. Section 24616 of the Education Code is*
12 *amended to read:*

13 24616. Any overpayment made to or on behalf of any
14 member, former member, or beneficiary, ~~disabilitant, or~~
15 ~~retirant~~, including but not limited to contributions,
16 interest, benefits of any kind, federal or state tax, or
17 insurance premiums, shall be deducted from any
18 subsequent benefit that may be payable ~~by the system~~
19 *under this part*. These deductions shall be permitted
20 concurrently with any suit for restitution, and recovery of
21 overpayment by adjustment shall reduce by the amount
22 of the recovery the extent of liability for restitution.

23 *SEC. 274. Section 24617 of the Education Code is*
24 *amended to read:*

25 24617. (a) To recover an amount overpaid, the
26 corrected monthly allowance may be reduced by no
27 more than 5 percent if the overpayment was due to error
28 by *the system staff*, the county superintendent of schools,
29 a school district, or a community college district, and by
30 no more than 15 percent if the error was due to inaccurate
31 information or nonsubmission of information by the
32 recipient of the allowance.

33 (b) This section shall not apply to the collection of
34 overpayments due to fraud or intentional
35 misrepresentation of facts by the recipient of the
36 allowance.

37 *SEC. 275. Section 24620 of the Education Code is*
38 *amended to read:*

39 24620. (a) The special reserve resulting from the
40 discontinuance of a district retirement salary plan as

1 provided in former Section 14690 prior to its repeal, and
2 a part of which is used annually in the interest of the
3 employees of the district at the discretion of the
4 governing board, is continued in existence and shall
5 continue to be used first as provided in this section.

6 (b) The district in which the district retirement plan
7 was discontinued and that credited each teacher or other
8 person employed by the district at the time of
9 discontinuance, in a status requisite for membership in
10 ~~the system~~ *this plan*, with an amount that bears the same
11 ratio to the portion of the assets delivered to the district
12 pursuant to former subdivision (c) of Section 14690 prior
13 to its repeal, that remained after the creation of the
14 reserve fund for payments under former subdivision (d)
15 of Section 14690 prior to its repeal, as required by former
16 subdivision (e) of Section 14690 prior to its repeal, as the
17 accumulated contributions credited to the member in his
18 or her individual contribution account under the
19 discontinued retirement plan at the time of
20 discontinuance, bore to the total accumulated
21 contributions so credited to all such teachers and persons,
22 but this credit to any active member shall not exceed the
23 amount of the member's accumulated contributions so
24 credited at that time. The amount so credited to any
25 person shall continue to be increased by interest at rates
26 approved from time to time by the governing board of
27 the district. The accumulated amount at the date upon
28 which the person retires for service or disability under the
29 system shall continue to be applied according to rates and
30 tables adopted by the governing board and then in effect,
31 to provide an annuity payable to the person throughout
32 the balance of his or her life or a lump-sum payment of the
33 total account balance on the date of retirement at the
34 option of the governing board. If the person dies prior to
35 retirement, the amount, with credited interest, shall be
36 paid to his or her designated beneficiary, as it appears on
37 the records of the district, if any, otherwise to the
38 member's estate. If the person ceases to be employed by
39 the district for any reason other than death, retirement,
40 or attainment of the age at which his or her classification

1 as a permanent employee ceases, he or she shall no longer
2 be credited with or have any right to the accumulated
3 amount, but the amount shall revert to and belong to the
4 district. The arrangement under which annuities and
5 death benefits are paid by a district under this subdivision
6 shall not be considered to be a local retirement system for
7 the purposes of this part, nor shall those payments be
8 taken into account in the calculation of retirement
9 allowances under ~~the system~~ *this plan*.

10 (c) The reserve fund created by the district from the
11 assets delivered to it pursuant to subdivision (c) of former
12 Section 14690 prior to its repeal is continued in existence
13 and in the amount equal in amount to the total
14 contributions credited to employees of the district, under
15 former subdivision (b) of former Section 14691 prior to its
16 repeal, and the annuities and death benefits payable
17 under subdivision (b) of former Section 14691 prior to its
18 repeal shall continue to be paid from this reserve fund. If
19 the reserve fund as first created proves insufficient to
20 make the payments required under subdivision (b) of
21 former Section 14691, the district shall continue to make
22 any additions to the reserve fund necessary to provide for
23 those payments.

24 (d) (1) In addition to any other investments
25 authorized by law for the investment of those funds, the
26 funds of any specialized reserve or reserve fund
27 established pursuant to former Section 14690 or former
28 Section 14691 prior to their repeal may continue to be
29 invested as authorized by Section 31595 of the
30 Government Code for the investment of the funds of a
31 county employees' retirement system.

32 (2) The governing board may employ investment
33 advisers to advise it on these investments and the fees for
34 these services may be paid from the special reserve or
35 reserve funds.

36 (e) The governing board may make additional
37 cost-of-living adjustments in the payments to persons who
38 retired prior to January 1, 1953.

39 *SEC. 276. Section 24700 of the Education Code is*
40 *amended to read:*

1 24700. On July 1, 1972, and thereafter all persons who
 2 first enter employment in the San Francisco Unified
 3 School District and the San Francisco Community
 4 College District ~~in positions requiring membership in the~~
 5 ~~system~~ to perform creditable service subject to coverage
 6 by the plan are members of the system in accordance with
 7 Section 22501. These new members are excluded from
 8 coverage under Subchapter II (commencing with
 9 Section 401) of Chapter 7 of Title 42 of the United States
 10 Code, for service performed as a member of the ~~system~~
 11 plan.

12 SEC. 277. Section 24701 of the Education Code is
 13 amended to read:

14 24701. Those credentialed members of the San
 15 Francisco City and County Employees' Retirement
 16 System on June 30, 1972, who make an irrevocable
 17 election to be covered only by the State Teachers'
 18 Retirement System *Defined Benefit Plan* for prior and
 19 future service performed in San Francisco, shall be
 20 allowed to be covered for other certificated service
 21 concurrently, where the provisions of the city and county
 22 charter permit. This shall not include any credited
 23 service, as defined in Section 22120.

24 SEC. 278. Section 24702 of the Education Code is
 25 amended to read:

26 24702. (a) All persons on the San Francisco system
 27 retired rolls on June 30, 1972, shall remain on the local
 28 rolls. The State Teachers' Retirement System shall
 29 continue the subvention in Section 24706 for those
 30 persons, shall apply the percentage update and annual
 31 improvement factor to payments being made by the
 32 ~~State Teachers' Retirement System~~ from the *Defined*
 33 *Benefit Plan* directly to the ~~retirant~~ those persons, and
 34 shall pay the retired death payment upon their death.

35 (b) The allowance that would have been payable had
 36 the member retired solely under the ~~State Teachers'~~
 37 ~~Retirement System~~ *Defined Benefit Plan*, including the
 38 percentage update calculated under Sections 14332,
 39 14333, and 14334 ~~of the Education Code~~, as enacted by
 40 Chapter 2 of the Statutes of 1959, as those sections read on

1 December 31, 1974, shall be taken into account in
2 computing the amount of increase for the ten dollar (\$10)
3 a month per year of service minimum benefit.

4 *SEC. 279. Section 24703 of the Education Code is*
5 *amended to read:*

6 24703. Persons who select to be covered only by the
7 ~~State Teachers' Retirement System~~ *Defined Benefit Plan*
8 and already have credit for classified or other
9 noncertificated service in the San Francisco local system
10 shall not have that credit transferred to the ~~State~~
11 ~~Teachers' Retirement System~~ *Defined Benefit Plan*.

12 *SEC. 280. Section 24704 of the Education Code is*
13 *amended to read:*

14 24704. The San Francisco City and County
15 Employees' Retirement System shall provide concurrent
16 retirement benefits for classified and other
17 noncertificated service in the San Francisco system
18 according to the provisions applicable to miscellaneous
19 employees of the time of the concurrent retirement for:

20 (a) Members of that system who transfer to the ~~State~~
21 ~~Teachers' Retirement System~~ *Defined Benefit Plan* after
22 June 30, 1972.

23 (b) Persons who were members of both ~~retirement~~
24 ~~systems~~ *the San Francisco system and the Defined*
25 *Benefit Plan* on June 30, 1972.

26 (c) Any person who could have qualified under
27 subdivision (b) if he or she had not taken a refund from
28 either *the San Francisco System or the Defined Benefit*
29 *Plan*, but not both ~~systems~~, provided ~~he or she~~ *the person*
30 qualifies for and redeposits prior to retirement.

31 *SEC. 281. Section 24706 of the Education Code is*
32 *amended to read:*

33 24706. The system shall pay *from the fund* to the San
34 Francisco Unified School District and the San Francisco
35 Community College District the amounts due for
36 subventions required prior to July 1, 1972, on account of
37 persons who retired or died prior to that date.

38 *SEC. 282. Section 24751 of the Education Code is*
39 *amended to read:*

24751. Those members who took a refund of their accumulated contributions from the former Los Angeles Unified School District Retirement System or the former Los Angeles Community College District Retirement System or the San Francisco City and County Employees' Retirement System, prior to July 1, 1972, and who also took a refund of their Permanent Fund contributions from the State Teachers' Retirement System *Defined Benefit Plan*, and who redeposited their contributions in the local system but did not redeposit their Permanent Fund contributions in the State Teachers' Retirement System *Defined Benefit Plan*, shall redeposit the contributions required to bring the account into full balance with regular interest from the date of refund to the date of payment. The redeposit may be made immediately upon notification by the system and shall be made prior to retirement. The redeposit shall be made in a lump sum or by installment payments as specified by the chief executive officer.

SEC. 283. Section 24950 of the Education Code is amended to read:

24950. An annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986 shall be offered to all employees of any state agency who are members of the ~~system plan~~ or any employee of a local public agency or political subdivision of this state that employs persons ~~in positions requiring or allowing membership in the system to perform creditable service subject to coverage by the plan.~~ The following criteria shall apply to that annuity contract and custodial account:

(a) The annuity contract and custodial account shall be offered for ~~not less than~~ at least five years.

(b) The annuity contract and custodial account may be administered by a qualified third-party administrator that shall, under agreement with the system, provide custodial, investment, recordkeeping, or administrative services, or any combination thereof. The third-party administrator shall not provide investment options.

1 (c) The investment options offered shall be
2 determined by the board consistent with those annuity
3 contract and custodial accounts described in Section
4 403(b) of the Internal Revenue Code of 1986.

5 (d) The system's investment staff shall make
6 recommendations to the board as to the appropriate
7 investment options. At a minimum, the board shall offer
8 at least three investment options. The board shall have
9 sole responsibility for the selection of service providers.

10 (e) All contributions made ~~by participants~~ in
11 *accordance with the provisions of Section 403(b) of the*
12 *Internal Revenue Code of 1986 and this section* shall be
13 remitted directly to the administrator and held by the
14 administrator ~~under custody~~ *in a custodial account on*
15 *behalf of the employee.* Any investment gains or losses
16 shall be credited to ~~participant~~ *those* accounts. The forms
17 of payment and disbursement procedure shall be
18 consistent with those generally offered by similar annuity
19 contracts and custodial accounts and applicable federal
20 and state statutes governing those contracts and
21 accounts.

22 (f) Any employer, other than the state, may elect to
23 make contributions to the employee's annuity contract
24 and custodial account on behalf of the employee. The
25 employer shall take whatever action is necessary to
26 implement this section, including the adoption of an
27 annuity contract and custodial account, or provide the
28 appropriate authorization in accordance with the
29 provision of Section 403(b) of the Internal Revenue Code
30 of 1986. Contributions made by an employer under this
31 section are excluded from the definition of
32 "compensation" and "salary" as provided in Section
33 22114.

34 (g) The design and administration of the annuity
35 contract and custodial account shall comply with the
36 applicable provisions of the Internal Revenue Code of
37 1986 and the Revenue and Taxation Code. Section 770.3
38 of the Insurance Code shall not be applicable.

39 *SEC. 284. Section 24951 of the Education Code is*
40 *amended to read:*

24951. If the rate of participation in the annuity contract and custodial account is less than 2 percent of the ~~system's active membership~~ *plan's active members* upon the completion of the initial five years of administration, the board may elect to terminate the offering of the annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986. The board shall provide two years' notice to the annuity contract and custodial account participants of its intention to terminate.

SEC. 285. *Section 25000 of the Education Code is amended to read:*

25000. (a) The board may develop one or more deferred compensation plans under Section 457 of the Internal Revenue Code which an employer may choose to establish and offer to its employees who are members of the ~~system~~ *Defined Benefit Plan or participants of the Cash Balance Plan*.

(b) In the event that an employer adopts a deferred compensation plan described in subdivision (a):

(1) The employer shall enter into a written contractual arrangement with the system under which the system, or a third-party administrator acting on behalf of the system, shall provide investment, recordkeeping, and administrative services ~~in respect of the~~ *for the deferred compensation plan*.

(2) The initial period of the contractual arrangement described in paragraph (1) shall be for a term of five years.

(3) The *deferred compensation* plan shall continue to constitute a separate plan established and maintained by the adopting employer.

(4) The system shall be treated as acting on behalf of the employer in administering the *deferred compensation* plan.

(5) The terms and administration of the *deferred compensation* plan shall be in accordance with the applicable provisions of Section 457 of the Internal Revenue Code.

1 (6) The interest of an employee, or his or her
2 beneficiary, participating in the *deferred compensation*
3 plan in the assets, including amounts deferred under the
4 plan and paid over to the Teachers' Deferred
5 Compensation Fund described in Section 25001, of the
6 employer sponsoring the *deferred compensation* plan
7 shall not be senior to that of the general creditors of the
8 employer.

9 (7) In administering the *deferred compensation* plan
10 on behalf of the employer, the board shall have the same
11 investment authority and discretion and be subject to the
12 same fiduciary standards pursuant to Chapter 4
13 (commencing with Section 22250), with respect to
14 amounts deferred under the *deferred compensation* plan
15 as applied by the system with respect to the Teachers'
16 Retirement Fund.

17 (c) In the event that an employer establishes and
18 maintains a deferred compensation plan described in
19 subdivision (a), the *deferred compensation* plan shall be
20 offered to all of its employees who are members of the
21 ~~system~~ *Defined Benefit Plan or participants of the Cash*
22 *Balance Plan*.

23 (d) An employee participating in a deferred
24 compensation plan established by an employer under this
25 section shall enter into a written agreement with the
26 employer for the deferral of compensation prior to the
27 performance of the services to which that compensation
28 relates.

29 (e) In the event that an employer chooses to establish
30 and maintain a deferred compensation plan described in
31 subdivision (a) that is to be administered by the system,
32 the employer shall take all necessary or appropriate
33 action to implement this section in cooperation with the
34 system.

35 *SEC. 286. Section 25001 of the Education Code is*
36 *amended to read:*

37 25001. (a) The Teachers' Deferred Compensation
38 Fund is hereby established to serve as the repository of
39 funds ~~in respect of~~ *for* the deferred compensation plans
40 administered by the system pursuant to this chapter.

1 Notwithstanding any other provision of law, the system
2 may retain a bank or trust company to serve as custodian
3 of the moneys of the Teachers' Deferred Compensation
4 Fund and to provide for safekeeping, recordkeeping,
5 delivery, securities valuation, or investment performance
6 reporting services, or services in connection with
7 investment of the ~~fund~~ Teachers' Deferred
8 Compensation Fund.

9 (b) The Teachers' Deferred Compensation Fund shall
10 consist of the following sources and receipts, and
11 disbursements shall be accounted for as set forth below:

12 (1) Premiums determined by the system and paid by
13 participating employers and employees for the cost of
14 administering the deferred compensation plan.

15 (2) Asset management fees as determined by the
16 system assessed against investment earnings of
17 investment option or of other investment funds. These
18 fees shall be disclosed to employees participating in the
19 *deferred compensation* plan.

20 (3) Compensation deferrals to be paid in monthly
21 installments by employers sponsoring deferred
22 compensation plans described in Section 25000 for
23 investment by the system. The moneys shall be deposited
24 in the investment corpus account within the Teachers'
25 Deferred Compensation Fund and invested in
26 accordance with the investment options selected by the
27 participating employee.

28 (4) All moneys in the Teachers' Deferred
29 Compensation Fund for disbursement to participating
30 employees shall be continuously appropriated without
31 regard to fiscal year. Disbursements to participating
32 employees shall be paid from a disbursement account
33 within the Teachers' Deferred Compensation Fund in
34 accordance with applicable federal law pertaining to
35 deferred compensation plans.

36 (5) Income, of whatever nature, earned on the
37 Teachers' Deferred Compensation Fund shall be
38 credited to the appropriate account. The accounts of
39 participating employees of the employer shall be
40 individually posted to reflect amounts of compensation

1 deferred and investment gains and losses. A periodic
2 statement shall be given to each ~~member~~ *participating*
3 *employee*.

4 (6) The system shall have exclusive control of the
5 administration and investment of the Teachers' Deferred
6 Compensation Fund.

7 (7) All of the system's costs of administering the
8 deferred compensation plans shall be recovered from the
9 employees who participate in the plans or assets of the
10 Teachers' Deferred Compensation Fund in a manner
11 acceptable to the board.

